G.R.S. 51

le No. 17-06

Serial Nos. 1-6

1906 07

GENERAL AND REVENUE SECRETARIAT.

(Legislation) 92

Part A: Manuscript
for July 1908

Amendment of the Negane Stamp Regulation
2 of 1906 Ordinance Subject No 24 of 1906

Serial Nos. 1-6

To the Superintendent, Advocate, No. 93187
dated the 10th April 1908

Forwards a Copy of the Bill as passed by the Legislative Council and requests him to print & forward 50 copies thereof

To the Chief Secretary to Govt in Council
No 1181-896 dated the 14 May 1908
Forwards the above-noted and

GPB—5,000—20-8-06.

request him to obtain the sanction of the Government of India to terms passed into law

3 Do No 2700 dated the 10th May 1908 from the Chief Secretary to the Govt. Lent in Tyrone to the Servan.

Asks the insertion of the words "any Minister and not" in the last sentence of Clause 10 (1) A (2) of the draft Bill as to be amended in clause 7 (3) (A) (2) of the British Indem nity Act of 1906

4 Do Letter No 563 dated the 21st May The same effect

States that the omission was due to a clerical error & forwards Copies of the Corrected

Letter No 363 / dated the 9th July The Lt. Lieutenant in Tyrone to the Earl Grey The sanction of the Secretary of State to the Bill subject to the usual c

To the London Gazette. No 27876 The 21st July 1908

The Parliamentary Draft of the Bill Copy Parliamentary Bill of 1908

G. R. S. 11]

GENERAL AND REVENUE SECRETARIAT

(Regd Cabinet

NOTES.

92

File. No 17

FILE HEADING.

Amendment of Stamp Regulation 4
& Rule 8 Subject No 24 of 90

From

	No.	Dated	Received	
Diary No.		Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

DR will represent Cabinet
20/11
20/11

NOTES—First sheet.

MGGPB—30,000—17-2-05.

UBJECT No. 24.

Amendment of Stamp Regulation, II of 1900.

Mr. S. R. Balakrishna Rao, B.A., LL.B., Shimoga Municipality.

Summary of discussion.—Section 40 (*b*) enacts that a penalty of Rs. 5 or of ten times the proper duty or of the deficient portion thereof, should be levied. This is very hard. The Deputy Commissioner has no discretion in the matter when he thinks that a penalty of Rs. 5 is too small and the alternative penalty is too high. To obviate this difficulty the section may be amended by inserting the words "of a sum not exceeding" between "if he thinks fit" and "ten times the amount," etc. Section 37 of the old Act (I of 1879) gave such a discretion.

Section 35 (*a*) may also be amended as above suggested.

Reply of Gocernment.—The point will be noted for needful action when the Stamp Regulation is next taken up for revision.

96

Sir,

I This will be filed for the pre
21/11/06 Branch II will also be asked to note this

Please return it a copy of the old Stamp Act and the Select Committee's report on the new Act. I propose to prepare a draft Amendment

29-11-06

Submitted with a copy of the Amendment Stamp Act 1879, and the Select Committee's Report on the new Act II of 1899, as also the Statement of Objects & Reasons thereof (Appendix A) of the Stamp Act II of 1900, with a copy thereof is also submitted

30/11/06

G.R.S. 12J
General and Revenue Secretariat.

Leg File No. 17 of 1906

Serial No.

The Deputy Comm^r is authorised by sec. 39 (1) to refund any portion of the penalty in excess of five rupees. What I mean is that sec. 39 (1) obviates the necessity ~~of~~ to amend sec. 35. Mom. (a)

Ln

28.12.06

Serial No.

Mis J 132
16.12.06

I have put up the draft of an amending Regulation with a Statement of objects and reasons. The hardship brought to notice is a real one, and I submit that we need not await for a general revision of the Stamp law, to have it remedied

K 16/12
Lee
22-12-06

(see D)

Should not section 35 proviso (a) be similarly amended? Vide ~~D~~ end para of the Summary of Discussion.

3 N 1 M 20/12/06

I think it is unnecessary to amend Sec 35, Prov. (a). The amount fixed in 35(a) is different from that fixed in 40(1)(6) — the difference being that while the Deputy Comr has some discretion in the amount of penalty to be levied a Court admitting in evidence an unstamped or insufficiently stamped document is given no discretion, but is required to recover the maximum penalty leviable. The intention of the legislature is apparently not to give any discretion to the Court; but if the amount which the Court has to levy is ~~wholly high~~ disproportionately large,

I think so also.
M

NOTE—Contn. sheet

GPB—50,000—23 10-05

Draft of a Regulation to amend the Mysore Stamp Regulation,1900.

--

Preamble. Whereas it is expedient to amend the Mysore Stamp Regulation,1900, His Highness the Maharaja is pleased to enact as follows:-

Amendment of Section 40, Regn. II of 1900

1.. In clause(b) of sub section (1) of section 40 of the Mysore Stamp Regulation, 1900, the words " of five rupees; or, if he thinks fit,---------- ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees" shall be omitted, and the following shall be added at the end of the said clause, namely:-

" A penalty not less than five rupees and not exceeding ten times the amount of the proper duty or of the deficient portion thereof, if ~~---~~ ten times such duty or portion exceeds five rupees; and not exceeding five rupees and not less than ten times the amount of the proper duty, or of the deficient portion thereof, if ~~such sum~~ ten times such duty or portion ~~said sum~~ of five rupees".-

---

~~Secretary~~ to Govt.

Statement of objects and reasons.

Under section 40 (1) (b) of the Mysore Stamp Regulation, 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is " five rupees, or if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees " n the Indian Stamp Act, 1879, which was the law in force in Mysore before the Regulation of 1900 was passed, the words relating to the amount of the penalty were as follows:- " a penalty of five rupees, or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion as he thinks fit"

2. Section 40(1)(b) of the Regulation of 1900 is based on the provisions of the Indian Stamp Act of 1899 The object of the alteration which the Act of 1899 made in the provision as to the amount of the penalty to be demanded is thus explained at para 11 of the report of the Select Committee to which the measure was referred :-

" As the law at present stands, the Collector may either impose a penalty of five rupees or a penalty of ten times the

amount

amount of the proper duty, provided that such amount does not fall short of five rupees. We think that the Collector should have a discretion to take ten times the amount of the proper duty even though that may not amount to five rupees, e.g., if the amount of the duty were two annas, he might be allowed to impose a penalty of Re.1-4-0"

3. While the alteration gives to the Deputy Commissioner the power to levy a penalty less than five rupees in certain cases, a power which he did not before possess, it has also operated ~~so as~~ to deprive the Deputy Commissioner of a discretionary power which he ~~enjoyed~~ possessed under the old law, namely, to levy a penalty, less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example, in the case of an unstamped document which should have been written on a ten-rupee stamp paper, the old law gave to the Deputy Commissioner a discretionary power to levy anything between Rs.5 and Rs.100; while under the present law, the penalty must be either Rs.5 or Rs.100, that is to say, if the Deputy Commissioner considers a penalty of Rs.5 to be insufficient in the circumstances of the case, he must levy a penalty of Rs.100 and cannot demand any smaller sum. The hardship caused by this was brought to notice at the last meeting of the

Representative

Representative Assembly (General Subject No.24). The Draft Regulation has for its object the removal of this.hardship, by giving sufficient discretion to the Deputy Commissioner.

Serial
No.

See 5)

Thanks

The draft Legn is all right
& may be sent up to the Resident
in Mysore for obtaining the sanction of
the Govt of India - W.H.

Dy Secretary 1/12/07

1806
2.1.1907
Hanlyan
15 1.

31.12

Kw

At one time I was in favour of the proposed amendment but it is quite possible that I deceived myself & that I appear in mds spoken or written. On second thoughts however I consider the amendment unnecessary - The Stamp laws have now been in force for seven years & they are well known and they have ceased to be the causes of the inconvenience that

Then

Note—Contn. sheet

GPB—50,000—23-10-05

Serial No.

has the exercise
The Act Cr Chm (are not indicated
& in the nature of things cannot be
the reaching of Dept/s should
thus turn out be varied &
somewhat arbitrary - To any
one who says that the existing
penalty is heavy the answer is
that the facilities for avoiding
such penalties by ascertaining
the Correct Stamp to be affixed
are great Therefore there is the
less reason for running the risk
of incurring such penalty - If
person ~~dec~~ 31 or sec 41 the Stamp Act fails
how a person can readily ascertain
& pay the proper amount of Stamp
Duty by a reference to the Dept
Comm' there is no reason why
he should not do so, but adopt
a deficient duty Take the chance
of securing a wrongful gain
thereby & the prejudice of the
State Revenue - And lastly
in Cases in which the existing penalty
may press hard, see 45 provides
for the "Chief Controlling Revenue-
authority" granting relief

Note—Contn. sheet

GPB—50,000—13-10-05

K.S.C. 14/2/07

Serial No.

They were in the cashed days
the vast majority of cases of un-
stamped or deficiently stamped
documents are rather cases of
wilful evasion of stamp duty
than otherwise. And it has to
be noted that the cases which do
turn up with notice in courts &
Cutcheries are but a small
fraction of those that do not
turn up at all. The present
penalty is 5 Rs or ten times the
deficiency whichever is the
greater of the two - To reduce this
to be but giving a premium to
evaders of stamp duty, & to commit
the wilful & deliberate breach of such evasion.
This is the less desirable in view
where the Comptroller has pointed out
how Stamp Revenue has not been
prospering as it has done in Sd India
& where deficiencies & evasion of stamp
duty are greater - Moreover
the amount of penalty to be
levied be Rs 5 Rs or ten times the
deficiency, is by the amendment
proposed to be left to the Deputy Com.
discretion - The lines on which

Note—Contn. sheet

GPB—50,000—23-10-00

Serial No.

7. When I was in charge of Districts as a Deputy Commissioner I have often felt the inconvenience of the present rule whereby it is rendered imperative to charge 10 times the duty in cases in which a penalty of 5 Rs is considered inadequate This works out allright in cases where 10 times the stamp duty is less than Rs 5 The law expressly sanctions the levy of the lesser penalty in such cases. But the hardship becomes apparent in the class of cases in which the alternative penalty of 10 times the duty exceeds Rs 5 There have been cases in which the penalty of Rs 5 was too little and 10 times the duty would have been crushing - What

GPB—50,000—23-10-05

Serial No.

was wanted was a Vlamed power to levy a penalty in excess of Rs 5, but within the limit of 10 times the duty In the absence of this provision I was often obliged in fairness to the parties to order the levy of the lesser penalty of Rs 5, whereas if I had the power now proposed to be given I should have levied a penalty of Rs 20 or 30 or 40 instead of the minimum of Rs 5 13

The Deputy Commissioner can be safely trusted to exercise this power with due regard to public interests

The proposed amendment is unobjectionable and may be adopted

Note—Contn. sheet.

GPB—50,000—23-10-05

Serial No.

The existing penalty is now heavy but it is ill asserted and the consequence is that the permissible lower penalty of Rs 5 is often levied in cases justifying a higher penalty though not one of 10 times the duty

W. Kettlewell
20 November

14

GPB—50,000—23 10-05

Leg +) 7 (a-)

Mysore
2073.

My dear Chandrasekharaiah,

I return file no Legis of 1906 re amendment of Section 40(6) of the Stamp Regn.

~~I~~ On reference to the Stamp Act in force in British India I find that Sec 40 (6) has been amended there in the same manner that

G.R.S. 12]
General and Revenue
Secretariat.

Legislative File No. 17 of 190( )

Serial No.

~~(The necessary references are put up.)~~

8. The Indian Stamp Act has been amended
(1) Act VI of 1900 (2) XV of 1904 (3) V of 1906
(1) is a slight amendment referring to Burma: we have nothing to do with it
(2) Act XV of 1904 introduces many changes the most important being the addition of a new Section 23 A, amendment of Section 26, + of Section 40 and the substitution of the new article 6 of the 1st Schedule for the old one
(3) Act V of 1906 mainly deals with fire insurance + lowers the rate of duty Section 7 of this Act makes some minor changes

Secy) 16 16/6/07

9 I am sorry it was not noticed that the Govt of India had anticipated us in the matter this would have saved much time, trouble and discussion.
(2) Our Legislative Branch (especially now that a Legislative Council has been formed) should keep closely acquainted with current legislation elsewhere, and particularly in British India

Note—Contn. shee

Serial No.

3 Please prepare a draft Regn: incorporating once for all, with the changes effected in the Indian Stamp Act as are adapted to local conditions, and submit early with a Statt of Objects & Reasons —

16/2/07

16 7+(2) - Please transfer these remarks to a separate file & submit

Q. (3) can Mr Rajagopalachar prepare draft Regn? K. Kalliyana Rau 20/4/07

10.IV.07/4

Sd 12(2) Is being separately attended to

28/4/07 (3) Subd to Fin

28/4 11 A Draft Regn with Statement of Objects & Reasons put up. The Draft Regn embodies most of the Sections of Acts IV of 04 & V of 06. I would invite attention as to the necessity of introducing the provns contained in clauses (2) 3 & 5 6, 6 & 10(7) of the Draft Regn The former deals with "marketable securities while the latter three are a group of clauses dealing with fiscal nuances pcly as All the other provns may be adopted

Para 4 in Statt of Objects & Reasons

29.4.07

NOTE—Contn. sheet

Serial No.

Please resubmit with the Statement of Objects and Reasons of Act. XV of 1904 Regd.

Ind with the reference called for. (H.L) 3/5/07

18-IV 3/5/07

12. The draft Regulation put up by Mr. Rajagopalachar includes all the amendments hitherto made in British India to the Stamp Act. 18

(1) Of these, those contained in clauses 1, 3 & 10(9) form one group which tackles cases of deposit of marketable securities by the general class of cases relating to deposit of title deeds provided for in Art. 6 of Schedule I and reduce the stamp duty in such cases to a uniform rate of 8 as instead of an ad valorem duty as at present (Art. 6) Whether cases of deposit of marketable securities (like Govt. of India Pro. notes or Mysore Govt. debentures) as contemplated in clause 3 (new Sec. 23A) occur at all in commercial transactions in Mysore or if they do occur whether such cases are so common that the existing duties are to be considered high, is extremely doubtful.

(2) Clauses 1(b), 2, 5(b), 6 and 10(7) form another group

NOTE—Contn. sheet

GPB—50,000—23-10-05

and relate to fire insurance & marine insurance. Clause 10(7) A ~~and~~ legalises an existing practice in connection with marine insurance of ~~dividing~~ dividing the stamp duty of ~~an~~ insurance policies between copies drawn in duplicate. Clause 2 introduces certain consequential changes. The remaining clauses of this group viz 1(6) 5(6), 6 and 10(7) B relate to fire insurance business — the principal alteration being that the rate of duty is reduced, and made payable by the person issuing, instead of by the person taking out, the policy. I do not think that we require these amendments in Ingoe. There are of course no marine insurance companies in Ingoe and I do not believe there are any fire insurance companies either. It may be that people do take out fire insurance policies, but such policies will be governed by the laws of the place where they are issued. These clauses may therefore be omitted.

(3) Clause 1(c) makes an addition to the definition of the word "settlement" The necessity for the ~~change~~ addition is explained in para 2 of Mr Rajagopalachari's Stt. of Objects & Reasons

G.P.B.—10,000—18-1-07

Serial No.

This clause may be adopted.

(4) - The next group of clauses 4 + 9 relate to the stamp duty on mining leases. Vide para 3 of Stt. of objects and reasons. It is possible that in the case of mining leases for manganese and other minor minerals, the stamp duty may be a little too high - But we have received no such representation; and I believe the terms regarding royalty are extremely favourable to licensees. If it is considered necessary to investigate the position, the Govt. Sect. may be consulted. 20

(5) Clause 5(a), 10(1)(2)(3)(4) + (6) form another group, of which 10(1) is the principal amendment. By this amendment the ~~new~~ term "equitable mortgage" is removed, and a more comprehensive definition of the transactions intended to be included, (including also pawns + pledges) is introduced. Please see para 7 of Stt. of objects and reasons. Clauses 5(a) 10(2)(3)(4)(a) + 10(6) introduce consequential changes. 10(4)(b)+(c) make some minor alterations. These may be adopted.

(6) - Clause 7 introduces the clause in regard to the penalty for deficiency in stamps,

Serial No.

in connection with which the amendment of the Stamp Act was first taken up. This clause must of course be adopted.

(7) Clause 8. Please see para 6 of the Statement of objects and reasons. May be adopted.

(8) Clause 10(5). Please see para 8 of Statement of objects and reasons. May be adopted.

Clause 7½ must be adopted. It is exactly what we want. The necessity for the other amendments has not been felt. But if it is considered desirable to bring our law into conformity with what it is in Bombay, Madras, we may also adopt 1(c), 5(a), 8, 10(1)(2)(3)(4), 15(5), 16(6), ~~16~~ clauses 1, 3, 10(9), 4 & 9 are doubtful. The other clauses are not wanted at all.

21

If instructions are given, in which of the amendments may be taken, I shall submit a revised Statement of objects and reasons.

K. McL.
Leg
21/5

Read Council
28-5-07
Leg

G.R.S. 12]
General and Revenue Secretariat.

Legislative File No. 17 of 1906.

Serial No. 13.

13. A personal instruction a revised Statement of objects and reasons including all the amendments is putup.

a typed copy of the draft Act with revised marginal abstracts is also putup. (Mr K Kalliani Secy) 29/5/07

14. Be submitted to the Councillor under the circumstances indicated in my note of 16/1/07 (Mr L.S. Gowri Sankara Sastri 1/6/07) Mr 1-6-07

22

1. The amendment proposed may be adopted in their entirety. Most of them are applicable to local circumstances e.g. (1) Mining leases, the present minimum of Rs 20,000 is simply prohibitive for manganese mines.
(2) Marketable securities, the new clause will afford facilities to trade.
(3) Equitable mortgage
(4) Refund of value of

1 typed copy received 30/5/07 Mr

Serial No.

unused Stamp papers to private bankers

(5) Reduction of duty mortgages of crops

(6) Penalty to be levied for unstamped or insufficiently stamped documents

(7) Extending the definition of Settlements so as to include an oral disposition of property 23

The only provisions which seem out of place are those relating to fire & Sea Insurance But I see no harm in retaining them

W Hillammett
D Jones

4/6/07 4/6/07 4/6

n sheet

(P.B—10,000—18-1-07)

G.R.S. 12]
General and Revenue Secretariat.

Serial No.

file re
a Amendt
has been
by the 2nd
Reprem-
ve please
a copy of the
the proposed
in red
refere

6/4/07

Rhs

The amendments have been noted their proper places in the accompanying copy.

5/6/07 5/6/07 (Mins Proby Addl Comm) 5/6/07

5.6.1907

16. The amendments may be adopted - I have done so

Please put up to the Resident, before he leaves, the draft reply to the Govt of India, for his approval

(The draft may be submitted)

G. R. S. 12]
General and Revenue
Secretariat.

LQ File No. 17 of 1906-07

Serial No. 16 Submitted the Dewan with the draft of a D.O. letter to the Resident

L. Rathna
11/6/07

6/11/6/07

15 The D.D. has been issued & the file resubmitted

D.R. 15.6.07

Sno 15/6

Send
I herewith ~~the~~
draft for me, to come a ~~the~~
same Stamp Regd ~~II~~ of 1900, together
with a ~~stt~~ of objects and reasons
which fully explains the nature
and scope of the proposed ~~draft~~
amendments.

It is intended to place the measure
before the Legislative Council, which
will soon come into existence.
but before doing ~~so~~
Should like to be informed of your
opinion as to the proposed legislation

Yours sincerely

G.R.S. 12j

General and Revenue ecretariat. | File No. of 190

Serial No.

Mysore.

~~BANGALORE.~~

28th June 1907

My dear Dewan,

I am desired to acknowledge with thanks the receipt of your D.O.letter No.611/2 dated 14th June 1907 enclosing a draft Regulation to amend the Mysore Stamp Regulation II of 1900, and to say that the Offg. Resident has no objection to the proposed legislation which as you are of course aware requires ultimately the sanction of the Government of India.

V.P.Madhava Rao Esq., C.I.E.

Dewan of Mysore.

The draft Regulation may perhaps be published in the Gazette or be left to be published after introduction in the Legislative Council by some Member of Govt.

NOTE—Contn. sheet

C.P.B—40.000—12-5-06

[Ft. S. 12]
General and Revenue Secretariat.

Leg File No. 17 of 1906-07

Serial No. 20

Now that the Resr has replied stating that the Resident has no objection & is to be determined whether the Stamps Regn Amendment Bill also is to be introduced at the first meeting of the Legislative Council we have already four measures to be placed before the Council at the first meeting Perhaps this may wait till the second meeting at.

S.D. Barry 2/2

Secy Yr Govt I suppose certain preliminaries have to be gone through I believe it has to be published after leave to introduce it is granted In the first meeting only a motion for leave to introduce it may be made Even for that I suppose it will have to be settled who should introduce the bill Please put up separately a short memo showing the various formalities to be observed — with references to the sections of the Legal Cl. Regn Rules thereunder — for the information of the members of the Council

Such as, I suppose
1) Form of publication which will be necessary before introduction
2) Motion at a meeting to have to introduce &c

Submit the file 2/8 for instructions as to who will introduce the bill

C.S. 2/8

NOTE—Contin. sheet

Serial No. 9

7370
5-7-1907

(Submitted to the 1st Councillor

22. If the Dewan has no objection, one of the non-official members may be asked (Mr Cowan or Mr Monteiro) — Attd 8/1

23. Subm[d] to Dewan Perhaps the Govt advocate may be asked to introduce the bill — if the above suggestion is not approved

6145
2 8 07

1/8

1. Dewan's ord[r]

Hon'ble Comr may be requested to introduce the bill

3/8

Asstt Secy Br III

Please consult Revenue accordingly

[illegible]

U.O.J.7

2. Forwarded unofficially to the Rev Comr with the request that he may kindly introduce the Bill

6.8.07

Note—Contn. sheet.

Leg File No. 17 of 1906-07

Serial No.

27. Permission to introduce the Bill as introduced before the Legislative Council was given at the meeting held on the 28th August 1907 and the Bill was introduced and read at the meeting held on the 20th January 1908. and was passed at the meeting held on the 24th Feby 1908 It now remains to get the sanction of the Govt. of India the Bill being promulgated as law A draft of the Bill as introduced is accordingly submitted for approval

NO 14/4/08 Perhaps the draft regulation may also be got printed separately for copies being sent to the Residency

14/4/08 15/4/08

30 A short letter to the Residency to put up the amendments sought to be introduced are word for word and letter for letter the same as those already introduced in British India by Acts XV of 1904 and V of 1906 the statements of objects and reasons accompanying the bill explains the more important of the amendments sought and as that will also

NOTE—Contn. sheet

Serial No.

be forwarded to the Residency it has been considered ~~to~~ unnecessary to discuss them again in the draft letter If the letter be approved the bill and the statement of objects and reasons will be sent to the Press and got printed again with the necessary alterations made. If however the draft letter be not approved, a draft will be put up on the lines of Mr. Rangaswami Iyengar's speech made at the time the leave of the Council was asked for [illegible] introducing the bill (Vide page 2 of the Abstract Proceedings dated 28th Aug 1907) It will be only a repetition of what is contained in the statement of objects and reasons K Nayagam 16/4/'8

~~Secy)~~ 16 4 '8) ~~Draft~~

A short draft will do I think the draft portion may be approved

~~Dewan Nov 1907~~

C S Jones 28/8

~~P.D.O~~

Note—Contn. sheet

Serial No.

Please put up a fair draft also the Bill and the statement of objects and reasons should be got printed again - Put up a draft to the Supt.

16.4.08 KWS

Legis 16/4

Fair draft & the Residency and a draft of a letter to the Superintendent, Fort Ors, are submitted

KWS 18/4/08

Issue the draft to the Supt. Submit the draft to the Residency to the 1st Cr for approval

19.4.08. KWS

2. The Supt. Fort Ors vide No. 3789 of the 20th April 1908

~~Submitted to the Committee~~ Amended a Copy of the Bill as passed by the Legislative Council with a Statement of Objects & Reasons & requests him to print 250 Copies ~~of the Bill~~ thereof.

30/4 Draft approved

(2) It seems advisable to treat such Copies of the Residency as a Committee Paper & with this & Cumulative Nos of the 2nd Committee & the Dewan before you. - KWS 20/4/08

Dewan through 2nd Cr

31 Draft may be approved NB 20/4

KWS

GPB—50 000—17-3-07

Le 7 1 07

(Submitted to His Highness.

82. (1) Under clause (1)(b) of Section 40 of the Mysore Stamp Regulation II of 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees; or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees". This gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. The hardship caused by this provision of the law was brought to the notice of Government at the meeting of the Representative Assembly in 1906, and, with a view to remedy this, it was considered desirable to amend the section by inserting the words "of a sum not exceeding" before the words "ten times the amount" in the said clause. A similar amendment has already been made (by Act XV of 1904) in the British Indian Stamp Act, 1899, on which the Mysore Stamp Regulation, 1900, is based.

83

(2) It was at the same time considered that the opportunity might be taken to introduce into the Mysore Stamp Regulation, certain other amendments which had been made in the British Indian Act by Acts XV of 1904 and V of 1906 so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India.

(3) A draft Regulation embodying all the amendments, the nature and scope of which are fully explain
ed

in the Statement of Objects and Reasons, was accordingly prepared, and, with the consent of the Hon'ble the Resident, was placed before the Legislative Council. The Bill has been considered and passed by the Council.

(4) The accompanying draft letter to the Residency requesting that the sanction of the Government of India may be obtained for the Bill being promulgated as law, may be approved.

V. P. Madhavan Nair
Secretary
24/4/1929

C 370
8 5.08

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

DATE 25/4/08
NO. 866.

Draft of a letter to the Residency requesting that the sanction of the Government of India may be obtained for a bill containing certain amendments to the Mysore Stamp Regulation ii of 1900.

867

Order

3 Approved
KRW
28/4/08

34

Seen
KRW
30/4/08

29/4/08

3/4 Home Secy. 29/4/08

Serial No. 2

2 Y.N. Secretary in Mysore No. RS 8506 6th May 1907 forwards the bill and requests him to obtain the sanction of the Govt. of India thereto

3 Do to Chief Comr. No. 2700 RS 20th May 1907 from Mr. T.N. Benson Secretary Mysore to Secretary

Suggests the omission of the words "exceeding one month and not" in the last sentence of clause 10(1) A(2) of the draft Bill as is to be found in Sec 7(3) A(2) of the British Indian Act V of 1908

35

H.W.

The bill is in accordance with the original draft framed. The reason for a departure in this

GPB—50,000—17-3-07

G. R. S. 12]

General and Revenue Secretariat.

Leg File No. 17 of 1906-07.

Serial No.

matter is not appr. in the Nizamat objects and reasons the phraseology of the Act proposed may perhaps be followed with few alterations.

25/5/08 25.5.08

As observed by Mr. Allan the amendments are 'word for word and letter for letter' the same as those already incorporated in Bombay. In Mr. Rayappa Apalachary's original manuscript draft the amendment in question was correctly copied but in the type, or printing one line of it he has apparently been omitted - instead of exceeding six months but not exceeding twelve months we have only exceeding twelve months - evidently though it is a clerical error.

Submitted with a draft Act.

25/5/08

Leg T (in the Municipal)

Secy 27/5/08

Secy

The First Asst to the Hon'ble the Resident in Mysore

No: Pol 896 dy 6.5.08

Requests to get the Sanction of the Govt of India for amending the

NOTE—Contn sheet.

GPB—50,000—17-3-07

G. R. S. 12]
General and Revenue Secretariat.

File No. 67 of 1906-07

Serial No.

Mysore Stamp Regulation (II of 1900,

Do letter no 2700 & 20.5.08 from the same officer pointing out the omission of the words "exceeding six months & not"—

4. Do letter no 963 & 27.5.08 to the same officer, stating that the omission noted above was due to a clerical error. and forwarding copies of corrected bill

5. From The First Asst to the Hon'ble the Resident in Mysore Letter no: 3437 & 3.7.08. 37 conveys the sanction of the Govt of India to the bill to amend the Mysore Stamp Regn (II of 1900) on the usual condition. (vide article 19 of the Instrument of Transfer)

Submitted + The bill has been finally passed by the legislative Council (Vide proc. of 12/7/08).

This has now to be submitted to the Dewan for placing before H.H the Maharaja for orders as to the promulgation of the bill as law (vide Sect 13, Legislative Council Regn) Laid with 2 copies of the bill as finally approved by the Govt of India

CRD SN 4.7.08 4/7/08

Under Sect 6/7/08

4/7/08

G. R. S. 12]
General and Revenue Secretariat.

File No. 1) of 1905 C)

Serial No.

37

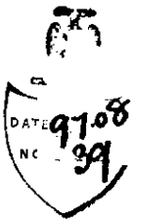
9063
8/7/08

Submitted to His Highness.

38 The Bill to amend the Mysore Stamp Regulation, II of 1900, has been approved by the Government of India, and I solicit sanction to its being promulgated as law.

K R McDermott
9/7/1908

Record of Cases submitted for the Orders of His Highness the Maharaja.



Subject.

sanction for promulating :- A Bill to amend the Mysore Stamp Regulation ,II of 1900.

40

Order.

35 Sanctione

KRM

11/7/08

Serial No. 41

Draft order to the Compiler forwarding the Bill for approval

After the draft comes, the file will be forwarded to the Legislative Secretary for announcement being made in the Legislative Council of the measure having been passed into law and the Bill with the Governor's signature being placed in the Council record.

S. Legislative Secretary
17/7/08 17/7/08 (Under Secy) 17/7/08

41 Done H.S. (Law Secretary) 18/7/08

41

C.S.

To the Compiler, Mysore Gazette No 9246 S
the 21st July 1908.

Orders the publication of the Regulation

42 Copies of the Regulation have to be forwarded to the Governor as has been included in the draft forwarding Copies the village Offices Regulation to the Governor

21/7/08 43

Secretary

Draft Regulation to amend the Mysore Stamp Regulation 190

Whereas it is expedient to amend the Mysore Stamp Regulation 1900 His Highness the Maharaja is pleased to enact as follows

1. In section 2 of the Mysore Stamp Regulation, 1900 (hereinafter referred to, as the "Stamp Regulation") —

(a) after the definition of "lease" in clause (16), the following definition shall be inserted, namely

"(16 A) "marketable Security" means a security of such a description as to be capable of being sold in any stock market in the United Kingdom or in any one of the Provinces of India or in the Princely States of India;"

and in clause (19) sub clause (c) the word and preceding thereto are hereby repealed and

to the definition of "settlement" in cl (24) the following words shall be added, namely

"and where an

Amendment of Sec 2 Reg. IV of 1900

Amdt of Indra Act IV of 04 Sec 2 (a)

is maybe called, if new section is introduced

marketable security

any such disposition has not been made in writing any instrument recording whether by way of declaration of trust or otherwise the terms of any such disposition"

Act V of 06 section 2.

Amendment of Section 11 32, 35, 40, 41, 69 + 74 Act II, 1900

2 In section 11 clause (a) sec 32, proviso, clause (c) sec 35 proviso clause (c) sec 41 sec 69 + sec 74 of the said Act after the words "one anna" wherever they occur the words "or half an anna" shall be inserted

3. After section 23 of the said Act the following section shall be added namely

"23A (1) Where an instrument (not being a promissory note or a bill of exchange) bona fide given as collateral security for the repayment on demand or at a future time of money advanced or to be advanced by way of loan or for an existing or future debt or (b) to indemnify a person against liability incurred or undertaken by him as a surety by the deposit with him of any negotiable security by way of mortgage or pledge or by the delivery to him of any document of title to goods or by the assignment to him by way of security of any debt or of any actionable claim or of any stock or marketable security or of any interest in any such debt claim stock or security and no agreement in writing between the parties to the contrary is in force the person with whom such deposit delivery or assignment is made shall not be entitled to exercise any lien right of set-off or counter-claim in respect of the money secured by such instrument against the person by whom such deposit delivery or assignment was made or against any person claiming under him otherwise than as a holder for value of a negotiable instrument to which the provisions of section 27 apply.

Certain instruments connected with mortgages of marketable securities chargeable as agreements

Added new section 23A after section 23 Act II, 1900

(2) Nothing in this section shall affect any lien right of set-off or counter-claim to which a person with whom such deposit delivery or assignment is made would be entitled if this section had not been enacted.

There is no objection.

3 of any marketable

I shall be chargeable with
duty as if it were an agree
ment or memorandum of a
-greement chargeable with
duty under Article 5(b)
Schedule I

2) A release or discharge of
any such instrument shall
be chargeable with the
like duty

Act XV of 84 Sec. 4

4 In section 26 of the said
Regn for the first proviso
following proviso shall be
substituted namely
" Provided that in the case
the lease of a mine in which
royalty or a share of the p
duce is reserved as the rent
or part of the rent it shall
be sufficient to have esti
mated such royalty or the
value of such share for
purpose of stamp duty
(a) Where the lease has
been granted by or on
behalf of the Govern
ment, at such amou
or value as the Dep
Com may have
gard to all the circ
stances of the case
estimated as likely
be payable by way
royalty or share to
Govt under the lease
(b) Where the lease has

be

been granted by
other person at twenty
thousand Rupees a year
and the whole amount of such
royalty or share whatever it
may be, shall be claimable
under such lease"

Act XV of 04. sec. 5.

5(a) In Section 29 clause (a)
of the said Regn, for the words
and figure "No. 6 (Agreement
to Mortgage)" the words and
figure "No. 6 (Agreement relating to deposit of Title-deed
Pawn or Pledge)" shall be
substituted

Amendment of clause (a) Sec. 29, Reg II, 1900

(b) For section 29 clause (b)
the following shall be substituted, namely

Act V of 06 sec. 4. substitution of new clause for clause (b) of sec. 29, Reg II, 1900.

"(b) in the case of a policy
of insurance other than
fire insurance — by the
person effecting the insurance
(bb) in the case of a policy
of fire-insurance — by
the person assuming the
policy;"

Act V of 06. sec 5

6. To Section 30 of the said Regn
the following paragraph shall
be added, namely:—

"Any person receiving or
taking credit for any premium
or consideration for any
renewal of any contract
of fire-insurance shall within
one month after receiving

Addition of sec. 30. Reg II, 1900.

for taking credit for such
premium or consideration,
give a duly stamped receip
for the same

Act XV of 04 Sec. 6 7 In section 40, subsection (1)
cl (b) of the said Regn before
the words "ten times the amou
the words "an amount not
exceeding" shall be inserted

Amendment of Sec 40 Reg II, 1900.

Act V of 06 Sec. 6. 8. In section 51 of the said
Regn after the words
"instruments" the words "b
any banker or" and after
the word "said" the word
"banker" shall be inserted

Amendment of Sec. 51 Reg I, 1902

Act XV of 04 Section 7 9 In section 56, subsection (1)
cl of the said Regulation,
after the word and figure
"Chapter V" the following shall
be inserted namely
"and under clause (a) of
the first proviso to section 26

Amendment of Sec 56 (1), Reg II, 1900

Act XV of 04 Sec 18 (1) 10. In Schedule I of the said
Regulation the following
amendments shall be
made namely

Amendments of Schedule I, Reg II, 1900.

(1) for article No. 6. the follow
ing shall be substituted, namely

"6. Agreement relating to Deposit of Title-Deeds Pawn or Pledge. that is to say any instrument evidencing an agreement relating to —
(1) the deposit of

17 of 16 & 17 Geo V

Title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), or

(2) the pawn or pledge of moveable property

where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;

The same duty as a Bill of Exchange [No. 12(b)] for the amount secured.

(b) if such loan or debt is repayable not more than three months from the date of such instrument

Half the duty payable on a Bill of Exchange [No. 12(b)] for the amount secured

Exemption

Instrument of pawn or pledge of goods, if unattested"

Act II of 06 Sect 7(1) (2) For clauses (b) + (c) of the exemption from Article No. 24 the following shall be substituted, namely:—

"(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, deaths and burials"

Act XV of 04 Sect 8(2) (2) In the entry immediately following Art No. 27 for the words + figure "See Agreement way of equitable Mortgage (No the words + figure "See Agreement relating to Depos

of "Title Deeds Pawn or Pledge (No 6)" shall be substituted

Act XV of 04, sect 8 (3) (3) The entry "Equitable mortgage for Howrah Art No 28 shall be omitted

(4) In Article No 38 —

Act XV of 04 Sec 8 (4) (a) for the words & figure "Agreement to mortgage (No. 6)" the words & figure "An agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6)" shall be substituted

(b) from cl (b) the words "at the time of execution" shall be omitted; and

(c) the exemption "(3) Instrument of Pledge or Pawn of Goods if unattested" shall be omitted

(5) In article 39

Act I of 06 Sec 7 (2) (a) in cl (b) for the words "one year" the words "eighteen months" shall be substituted

(b) for the entry "four annas" each time it occurs in the second column opposite cl (b) the entry "Two annas" shall be substituted

Act XV of 04 Sec 8 (5)

Act XV of 04 Sec 18 (6) (6) After article 44 the following entry shall be inserted, namely,

"Pawn or Pledge — See Agreement relating to Deposit of Title Deeds, Pawn or Pledge (No. 6)

7) For divisions B & Article
No 45 the following shall be
Substituted, namely

	If drawn Singly.	If drawn in duplicate for each pa
A — Sea - Insurance (See Section 7)		
(1) for or upon any Voyage		
(i) Where the premium or consideration does not exceed the rate of two annas or one eighth percentum of the amount insured by the policy	One anna	Half an an
(ii) in any other case, in respect of every full Sum of one thousand Rupees & also any fractional part of one thousand rupees insured by the policy	Two annas	One anna
(2) for time		
(iii) in respect of every full sum of one thousand rupees & also any fractional part of one thousand rupees insured by the policy	Two annas	One anna
Where the insurance shall be made for any time not exceeding six months		
Where the insurance shall be made for any time exceeding six months but not exceeding twelve months	Four annas	Two anna
B — Fire Insurance —		
(1) in respect of an original policy		Eight anna
(i) Where the Sum insured does not exceed 5000 Rs.		One Rupee
(ii) in other cases		One half of the du payable in respect o the original policy addition to any
(2) in respect of each receipt for any payment of premium on any renewal of any original policy		

Legislation

amount chargeable
under No 51"

(8) To Article No. 51 the following note shall be added, namely

Act V of 16 Sec 7(4)

"See also Policy of Insurance [No 45 B(2)]

(9) In Article No. 53, after the word "instrument" the following parenthesis shall be inserted namely

Act XV of 04 Sec 8(7)

"(not being such a release as is provided for by Section 23A)"

27/4/07

Secretary

Dig 7/10/1909 (9

Statement of Objects and Reasons

~~At the last session of the~~

Under clause (k) of section 40 of the Stamps Act, the penalty which the Deputy Comr shall demand for an unstamped or insufficiently stamped document is five rupees, or ten times the amount of the deficient portion thereof" thus giving ~~the~~ no discretion to the Deputy Comr to levy a penalty less than ten times the amount of the proper duty or the difference where such amount is less than five rupees. To take an example, in the case of an unstamped document which should have been written on a ten rupee stamp paper, the Deputy Comr must levy a penalty of Rs 55 whether he thinks fit say, if the Deputy Comr considers a penalty of Rs 5 be sufficient in the circumstances of the case, he has no option but to levy a penalty of Rs 100 and cannot demand any smaller sum. The hardship caused by this was brought to notice at the last meeting of the Representative Assembly (General Subjects No 24) & proposed to remedy this by inserting the word "an amount not exceeding" before the words ten times the amount

Vide Sub-section - Vide Clause 7 of the draft
Regulation may be remarked that the amendment

~~No opportunity has been taken~~ has already been made by Act XV of 1904 in the Indian
Stamp Act ~~was~~ 1899 on which the Burma Stamp Law
is based.

2 The opportunity ~~is taken~~ is also taken to introduce ~~also~~
certain other amendments ~~that are~~ which have been made
in the British Indian Act, by Act XV of 1904 & V of 1906, so as
bring the Burma Stamp Law into conformity with the
Stamp Laws of British India. Some of the amendments,
E.g. those relating ~~to~~ to instruments ~~executed~~ out-of-British
~~may not be~~ may not be of much consequence ~~as~~ ~~the Burma State is~~ so far as Burma is concerned; but
Article 11 of 1899 does contain certain provisions in
respect of which matters, it is considered desirable ~~to~~
~~bring the Law into line~~ include the amendments relating
thereto provisions also ~~have been adopted~~. The more important
other amendments are explained below:-

3. Clauses ~~1(c) & (d)~~ (a) 3. Clause 1(a) defines the Supreme Court
able security. This definition is necessary in connection with
the new section 23 A, ~~proposed to be added~~ - Vide clause 5 -
by which ~~it is proposed to levy~~ a fixed fee of eight annas ~~is~~ instead of the fee prescribed in Art 6 of Schedule I
security deposited by way of equitable mortgage is made liable -

4. " Clause ~~1(c)~~ (c). - - - - - settlements" [Rej.]

5. Clauses ~~3(b)~~ 4 & 9 "Under Sec 26 - - - - - estimate" [Not at issue]
Clause 9 provides for the revision of the Ct. Com's decision in such
cases ~~by the~~ by the Chief Controlling Revenue ~~Court~~ authority.

6. Clause 5(6), 6 & 10(7) "Where - - - duplicate" [Rej.]

7. " Clause 8 papers [Rej.]

8 Clause 10(1) ---------- Sochs "Ray]

9 Clause 10(5 --- Marks" [Ray]

10. Neither amendments are fines consequential [illegible]

No explanation

Ly.

Statement of Objects & Reasons (12)

~~At the last Session of the Repres~~

The attention of the Government was drawn, at the last meeting of the Representative Assembly (Vide Subject No. 24), to the hardship caused by section 40 (1) (b) of the Stamp Regulation, 1900. Experience afforded by the working of the Regulation brought other defects into view. It is now proposed to introduce some amendments which are considered desirable. The Draft Regulation is based on the Govt. of India Acts XV of 1904 and V of 1906. The more important of the amendment are explained below:—

(1) Clause 1(a) & 3. The former defines the expression "marketable security". This definition was needed in connection with the new section 23A introduced by Cl 3 which levies a fixed fee of eight annas only when the security deposited by way of equitable mortgage is marketable

(2) Cl 1(c) suggests an addition to the definition of "Settlement" with the object of

^experienced in connection with the operation of Clause (1) (b) of Sec. 40 of the Stamp Reg., II of 1900. Under this clause the penalty which the defr. comp. shall demand for unstamped or insufficiently stamped documents is "five Rupees, or if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees".

of preventing the evasion of stamp-duty imposed on settlements which it is proposed to effected by the simple expedient of first making an oral disposition of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the settlor and the Trustees join. Such an instrument is only chargeable with a stamp-duty of Rs 15 under article 62 instead of with the heavier duty imposed by article 56 as proposed

(3) Clauses 4 & 9. In the proviso to section 26, it is provided that, if, in the case of mining leases in which a royalty or a value of the share is reserved as rent, the lease is stamped on the assumed valuation of 20,000 Rs a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is unsuitable in the case of mining leases granted by Govt., for, in order to safeguard the interests of Govt., revenue Officers value the royalty at the figure just referred to in all cases. This constitutes an undue heavy burden on small & unproductive mines. It is proposed in cl 4 to provide that when a mining lease is granted by Govt. the Dy Comr may estimate the

(14

the amount of the royalty which he considers likely to be payable and it will be sufficient if the lease is stamped in accordance with his estimate. Cl. 9 allows revision of the Dy Comrs estimate by the Chief Controlling Revenue Authority

(4) Clauses 5 (b), 6 + 10(7) This is a group of clauses relating to the duty on fire + marine insurance policies. The present rates prescribed by Article No. 45 (B) of Schedule I are unequal and unduly high. It is accordingly proposed, in Cl 10(7) of the Draft Regn., to substitute, for the present rates which vary according to the amount or the period of the policy, a uniform duty of eight annas in respect of every fire insurance policy when the sum insured is less than 5000 Rs, and of 1 Re in other cases, and half these duties on every premium payment in addition to the usual stamp duty of one anna for receipts given for premium or consideration for any renewal of a contract of fire-insurance. (Cl. 6) Under this arrangement the liability to stamp the policies + receipts is imposed upon the Companies which issue them (Cl 5(b)) Cl 10(7) legalises an existing but unauthorised practice of dividing the stamp duty

for fire & marine policies inserted

in on marine insurance

Reg 7 of 1910 (15 -
policies between copies drawn
in duplicate

(5) Clause 7 under section 40(1)(b)
of the Regulation the penalty
which the Dy Comr shall
demand for unstamped or
insufficiently stamped docu-
ments is five Rupees, or if
he thinks fit, ten times the
amount of the proper duty
or of the deficient portion
thereof, whether such amount
exceeds or falls short of 5 Rs.
This gives no discretion to
the Dy Comr to levy a penalty
less than ten times the
amount of the proper duty or
of the deficiency, where such
amount is in excess of five
Rupees. The hardship caused
by this is sought to be removed
by clause 7

(6) Clause 8 admits private
banking firms to the benefit
allowed by sec. 51 of the Regn.
in regard to the refund of the
value of unused stamp papers

(7) Clause 10 (1). In Article 11(a).
6 of the Schedule I the term
"equitable mortgage" is not
clear enough to comprehend
all the transactions intended
to be denoted by it. It appears
doubtful whether pawns or
pledges come under the Article
other defects and anamolies
noticed in the same connection
are (a) want of provision
therein

wisesome

thereon, or the case where an equitable
mortgage is executed to secure
the repayment of a loan after
more than one year or (b) for the
case where the advance secured
is repayable on demand.
It is proposed, in Cl 10(11), to
amplify the article so as to
define more clearly the nature
of the transaction intended
to be covered. Pawns + Pledges
are specifically mentioned and
the reference to hypothecation
has been omitted; thus all
transactions of the nature
of hypothecation (ie) where
moviable property is simply
priated by way of security
for the discharge of a debt or
Obligation engagement with
out parting with its possession
— are outside the scope of the
article. It is proposed to keep the
impose the stamp duty on a
documents securing repay-
ment after more than one year
as that on a document
securing repayment within
one year; and documents
securing repayment on demand
are to be liable to the same
duty as that on documents
securing repayment after
more than three months. Finally
it is proposed to place all
documents, whether their exe-
cution is or is not simulta-
neous with the advances
secured by them, on the same

aeg File No. 17-06
Serial No. 1

Diary No. of letter replied to ———

No. J 3187

General and Revenue Secretariat
( )
, the 190

To The Superintendent,
Government Press.
Bangalore

Date of issue 20/4/08

Signed by H. K. Douglas Rao

Has the honor to forward herewith the accompanying Bill to amend the Mysore Stamp Regulation II of 1900 as passed by the Legislative Council with the Statement of Objects and reasons thereof and to request that the same may be printed and 50 Copies forwarded to the Legislature Branch of this office early proofs being forwarded for correction before final Copies are struck off ——— & 0

SUBJECT.

Stamp duties

(6) Cl 10 (5). Stamp duties on certain mortgages of crops are reduced from four annas to two annas, as well as the duty on mortgages of crops when the loan is repayable in more than twelve but not more than eighteen months.

The other amendments are purely consequential and require no explanation.

Secretary

SBL
29/6/07

Bgy 2-6-11

(11)

Posting

(8) Cl 10 (5). Stamp duties on certain mortgages of crops are reduced from four annas to two annas, as well as the duty on mortgages of crops when the loan is repayable in more than twelve but not more than eighteen months.

The Stat amendments are purely consequential and require no explanation

Secretary

SBL
29/6/07

The Mysore Gazette.

Vol. 42.] PUBLISHED BY AUTHORITY [No. 39.

BANGALORE, THURSDAY, SEPTEMBER 26, 1907.

PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 124—L. C. 11-07, dated 21st September 1907.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill to amend the Mysore Stamp Regulation, II of 1900, together with the Statement of Objects and Reasons therefor, is published for general information :—

DRAFT REGULATION TO AMEND THE MYSORE STAMP REGULATION, 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900, His Highness the Maharaja is pleased to enact as follows :—

Amendment of Sec. 2, Regulation II, 1900.

1. In Section 2 of the Mysore Stamp Regulation, 1900, (hereinafter referred to, as the "said Regulation")

Government of India, Act XV of 1904, Sec. 2 (a).

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely :—

"(16A) "marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

Marketable security.

Act V of 1906, Section 2.

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed; and

Act XV of 1904, Sec. 2 (b).

(*c*) to the definition of "settlement" in clause (24), the following words shall be added, namely :— "and, where any such disposition has not been made in writing any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

Act V of 1906, Sec. 2.

2. In Section 11, clause (*a*), Section 32, proviso, clause (*c*), Section 35, proviso, clause (*a*), Section 40, Section 41, Section 69 and Section 74 of the said Regulation after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Amendment of Secs. 11, 32, 35, 40, 41, 69 and 74 of Regulation, II of 1900.

Addition of new Sec. 23A after Sec. 23, Regulation II, 1900.

3. After Section 23 of the said Regulation, the following section shall be added, namely :—

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements."

"23A(1). Where an instrument (not being a promissory note or a bill of exchange)

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

Act XV of 1904, Sec.

Amendment of Sec. 26, Regulation II, 1900.

4. In Section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely :—

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease; or

(*b*) when the lease has been granted by any other person, at twenty-thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Act XV of 1904, Section 5

5(*a*) In Section 29, clause (*a*) of the said Regulation, for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Amendment of Sec. 29, clause (*a*) Regulation II, 1900.

Act V of 1906, Sec. 4.

(*b*) For Section 29, clause (*b*), the following shall be substituted, namely :—

Substitution of new clause for clause (*b*) of Sec. 29, Regulation II, 1900.

"(*b*) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance;

(*bb*) in the case of a policy of fire-insurance—by the person issuing the policy;"

Act V of 1906, Sec. 5.

Addition to Sec. 30 of Regulation II, 1900.

6. To Section 30 of the said Regulation, the following paragraph shall be added, namely:—

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

Act XV of 1904, Sec. 6.

Amendment of Sec. 40, (1) (*b*) of Regulation II, 1900.

7. In Section 40, sub-section (1), clause (*b*) of the said Regulation, before the words "ten times the amount" the words "an amount not exceeding" shall be inserted.

Act V of 1906, Sec. 6.

Amendment of Sec. 51, Regulation II, 1900.

8. In Section 51 of the said Regulation, after the words "instruments" the words "by any banker or" and after the word "said," the word "banker" shall be inserted.

Act XV of 1904, Sec.

Amendment of Sec. 56, (1) Regulation II, 1900.

9. In Section 56, sub-section (1) of the said Regulation, after the word and figure "Chapter V" the following shall be inserted, namely:—

"and under clause (*a*) of the first proviso to Section 26."

Act XV of 1904, Sec. 8, (1).

Amendments of Schedule I, Regluation II, 1900.

10. In Schedule I of the said Regulation, the following amendments shall be made, namely:—

(1) For Article No. 6 the following shall be substituted, namely:—

"6. Agreement relating to Deposit of Title-Deeds, Pawn or Pledge, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.
Exemption.	
Instrument of pawn or pledge of goods, if unattested."	

(2) In the entry immediately following Article No. 27 for the words and figure "See Agreement by way of equitable mortgage (No. 6)" the words and figure "See Agreement relating to deposit of Title-deeds, Pawn or Pledge (No. 6)" shall be substituted.

Act XV of 1904, Sec. 8 (3).

(3) The entry "Equitable mortgage" following Article No. 28 shall be omitted.

Act XV of 1904, Sec. 8 (4).

(4) In Article No. 38.

(*a*) for the words and figure "An Agreement to mortgage (No. 6)" the words and figure "An Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6)" shall be substituted.

(*b*) from clause (*b*) the words "at the time of execution" shall be omitted; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

Act V of 1906, Sec. 7. (2).

(5) In Article 39—

(*a*) in clause (*b*) for the words "one year" the words "eighteen months" shall be substituted.

Act XV of 1904, Sec. 8 (5).

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*) the entry "two annas" shall be substituted.

Act XV of 1904, Sec. 8 (6)

(6) After Article 44 the following entry shall be inserted, namely:—

"Pawn or Pledge—See Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6)."

(7) For divisions A and B of Article No. 45, the following shall be substituted, namely:—

	If drawn singly	If drawn in duplicate for each part
"A. Sea—Insurance (See Section 7).		
(1) for or upon any voyage		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy.	One anna.	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	Two annas.	One anna.
(2) for time		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy where the insurance shall be made for any time not exceeding six months;	Two annas.	One anna.
where the insurance shall be made for any time exceeding twelve months.	Four annas.	Two annas.

	If drawn singly	If drawn in duplicate for each part
B. Fire Insurance.		
(1) in respect of an original policy.		
(i) where the sum insured does not exceed 5,000 rupees.	.....	Eight annas.
(ii) in other cases.	.....	One rupee.
(2) In respect of each receipt for any payment of premium on any renewal of any original policy.	.....	One-half of the duty payable in respect of original policy in addition to any amount chargeable under No. 51."

Act V of 1906, Sec. 7 (4).

(8) To Article No. 51 the following note shall be added, namely :—

"See also Policy of Insurance No. 45 B(2)."

Act XV of 1904, Sec. 8 (7).

(9) In Article No. 53, after the word "instrument" the following parenthesis shall be inserted, namely :—

"(not being such a release as is provided for by Section 23A)."

Statement of Objects and Reasons.

Under clause (1), *(b)* of Section 40 of the Mysore Stamp Regulation, II of 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees, or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof." This gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example, in the case of an unstamped document which should have been written on a ten rupees stamp paper, the Deputy Commissioner must levy a penalty of either Rs. 5 or Rs. 100; that is to say, if the Deputy Commissioner considers a penalty of Rs. 5 to be insufficient in the circumstances of the case, he has no option but to levy a penalty of Rs. 100, and cannot demand any smaller sum. The hardship caused by this was brought to notice at the last meeting of the Representative Assembly (General Subject No. 24). It is proposed to remedy this by inserting the words "an amount not exceeding" before the words "ten times the amount" in the said sub-section, *vide* clause 7 of the Draft Regulation. It may be remarked that this amendment has already been made by Act XV of 1904 in the Indian Stamp Act, 1899, on which the Mysore Stamp Regulation is based.

2. The opportunity is also taken to introduce certain other amendments which have been made in the British Indian Act, by Acts XV of 1904 and V of 1906, so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India. Some of the amendments, *e.g.*, those relating to fire insurance and sea-insurance may not be of much consequence as far as Mysore is concerned; but since Regulation II of 1900, does contain certain provisions in respect of such matters, it is considered desirable to include in the Draft Regulation the amendments relating to these provisions also. The more important of the amendments are explained below.

3. *Clauses 1(a) and 3.*—Clause 1(*a*) defines the expression "marketable security." This definition is necessary in connection with the new Section 23 A—*vide* clause 3—by which it is proposed to levy a fixed fee of eight annas only instead of the fees prescribed in Article 6 of Schedule I, when the security deposited by way of equitable mortgage is marketable.

4. Clause 1 (*c*) suggests an addition to the definition of "settlement" with the object of preventing the evasion of stamp duty imposed on settlements which it is now possible to effect by the simple expedient of first making an oral disposition

of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the settler and the trustees join. Such an instrument is only chargeable with a stamp duty of Rs. 15 under Article 62 instead of with the heavier duty imposed by Article 56. The proposed addition to the definition will have the effect of requiring such instruments in future to be stamped as settlements.

5. *Clauses 4 and 9.*—Under Section 26 of the Regulation where the value of the subject matter of an instrument is unknown or indeterminate, the contracting parties may use their discretion as to the value of the stamp to be affixed to the instrument but no sum can be recovered under it in excess of the amount covered by the duty actually paid. An exception is, however, made in the case of mining leases in which a royalty or share of the produce is reserved as rent. The value of the share or royalty is necessarily indeterminate in the majority of such cases, and it is, therefore, provided that, if the lease be stamped on an assumed valuation of Rs. 20,000 a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is considered unsuitable in the case of mining leases granted by the Government; for the natural tendency of Revenue Officers is to safeguard the interests of the Government by valuing the royalty at the figure just referred to in every case. The stamp-duty, ordinarily payable on this valuation, is Rs. 200; and this constitutes a heavy burden in the case of small and unproductive mines. It is proposed, therefore, by clause 4 of the Draft Regulation, to expand the section so as to provide that, where a mining lease is granted by the Government, the Deputy Commissioner may estimate the amount of royalty which he considers likely to be payable, and it will be sufficient if the lease is stamped in accordance with his estimate. Clause 9 provides for the revision of the Deputy Commissioner's decision in such cases by the Chief Controlling Revenue authority.

6. *Clauses 5 (b), 6 and 10 (7).*—This is a group of clauses relating to the duty on fire and marine insurance policies. The present rates for fire insurance policies prescribed by Article 45 (B) of Schedule I are considered inequal and unduly high. It is accordingly proposed in clause 10 (7) of the Draft Regulation to substitute, for the present rates which vary according to the amount or the period of the policy, a uniform duty of eight annas in respect of every fire insurance policy, when the sum insured is less than Rs. 5,000 of Re. 1 in other cases and half these duties (in addition to the usual stamp duty of one anna for receipts given) on every payment of premium or consideration for any renewal of a contract of fire insurance. (Clause 6). Under this arrangement the liability to stamp the policies and receipts is imposed upon the companies which issue them [Clause 5 (*b*)]. Clause 10 (7) legalises an existing but unauthorised practice of dividing the stamp duty payable on marine insurance policies between copies drawn in duplicate.

7. Clause 8 admits private banking firms to the benefit allowed by Section 51 of the Regulation in regard to the refund of the value of unused stamp papers.

8. *Clause 10 (1).*—In Article 6 of Schedule I, the term "Equitable mortgage" is not clear enough to comprehend all the transactions intended to be denoted by it. There appears to be some doubt as to whether pawns and pledges come under the article. Other defects and anomalies noticed in the same connection are (*a*) want of provision therein for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year, or (*b*) for the case where the advance secured is repayable on demand. It is proposed, in clause 10 (1), to amplify the article so as to define more clearly the nature of the transaction intended to be covered. Pawns and pledges are specifically mentioned and the reference to 'hypothecation' has been omitted; thus all transactions of the nature of hypothecation—*i.e.*, where movable property is simply appropriated by way of security for the discharge of a debt or engagement without parting with its possession—are outside the scope of the article. It is proposed to impose the same duty on a document securing repayment after more than one year as that on a document securing repayment within one year; and documents securing repayment on demand are to be liable to the same duty as that on documents securing repayment after more than three months. Finally it is proposed to place all documents whether their execution is or is not simultaneous with the advances secured by them, on the same footing.

9. *Clause 10* (5).—Stamp duties on certain mortgages of crops are reduced from four annas to two annas as well as the duty on mortgages of crops when the loan is repayble in more than twelve but not more than eighteen months.

10. The other amendments are purely consequential and require no explanation.

By Order,
K. MYLAR RAO,
Secy., Mysore Leg. Council.

C.R.S. 26]

1 1 Leg. **File No.** 17-0

Serial No. 2.

Diary No. of letter replied to ———

Pol: No. 896
Secy

General and Revenue Secretariat

( )

, *the* 190

To The P. A. Resident in Mysore
Bangalore.

Date of issue 6-5-1905

Signed by Mr. P. G. D'Souza.

Sir,

I am directed to forward herewith a Bill to amend the Mysore Stamp Regulation, II of 1, for the approval of the Govern Board of India.

2. The Stamp law in force in this State, Regulation II of 1900, was passed on the lines of the Indian Stamp Act II of 1899. The latter Act has since been considerably modified in British India by Acts XV of 1902 and V of 1906. The amendments introduced by the above Acts are embodied in the ten clau

over.

SUBJECT.

of the present bill and
effect of this legislation will
be to bring the Stamp Law in
Mysore into Conformity with
the Stamp Law in British India
the statement of objects and
reasons accompanying the bill
explains the more important
of the amendments proposed to
be introduced The bill has
been considered and passed by
the Mysore Legislature Council
in accordance with Regulation
I of 1907

I have &c

Secretary

I am to request that the Govt of India may be kindly moved to accord their approval to the bill - List of enclosures.

Seven

20 Apr 08

Copied by KR 21/4/08

Examined by 24/4/08 SN

MGCPB—30,000—16-2-05

Dear Mr. Madhava Rao,

D. O. No. 2700 dated 20th May 1908.

Will you kindly refer to Mr. Balasundram Iyer's letter No. 896 dated the 16th May 1908 forwarding a draft bill to amend the Mysore Stamp Regulation (1900 VI of 1900).

The last sentence of clause 10 (7) A (2) of the draft bill does not contain the words "exceeding six months and not" which occur in Section 7 (3) A (2) of the British India Act, V of 1906, and Mr. Fraser will be glad to be informed whether the omission is due to a clerical error. Should this not be the case, I am to ask whether it would not be advisable to alter the words "twelve" into "six" so as to provide for term policies for periods exceeding six but not exceeding twelve months.

Your sincerly,
F. P. RENNIE.

To

V. P. MADHAVA RAO, ESQ., C. I. E.
Dewan of Mysore.

Dear Sir,

D. G. Pol. No. 963 enclosure 7 dated 27th May 1908.

I am desired to acknowledge the receipt of your D. O. letter No. 2700 dated the 20th May 1908, to the address of the Dewan on the subject of the draft bill to amend the Mysore Serial 1 Stamp Regulation II of 1900.

In reply I am to express regret that the words "exceeding six months and not" in the last sentence of clause 10 (7) A 2 were omitted owing to a clerical error. Seven copies of the bill are sent herewith with the omission duly filled up; and these may kindly be substituted for the copies sent with my official letter Political No. 896 dated the 6th May 1908.

Your Sincerely,
C. S. B.
26-5-08.

F. P. RENNIE ESQ., I. C. S.

BILL TO AMEND THE MYSORE STAMP REGULATION, II OF 1900.

—:o:—

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900, His Highness the Maharaja is pleased to enact as follows :—

Amendment of Sec. 2, Regulation II, 1900.

1. In Section 2 of the Mysore Stamp Regulation, II of 1900, (hereinafter referred to as the "said Regulation")—

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely :—

Marketable security.

"(16A). "Marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed; and

(*c*) to the definition of "settlement" in clause (24), the following words shall be added, namely :—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

Amendment of Secs. 11, 32, 35, 40, 41, 69 and 74, Regulation II, 1900.

2. In section 11, clause (*a*), section 32, proviso, clause (*c*), section 35, proviso clause (*a*), section 40, section 41, section 69 and section 74 of the said Regulation, after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Addition of new Sec. 23A after Sec. 23, Regulation II. 1900.

3. After section 23 of the said Regulation, the following section shall be added, namely :—

"Certain instruments connected with mortgages of marketable securities to be chargeable as agreements."

"23A (1). Where an instrument (not being a promissory note or bill of exchange),

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

Amendment of Sec. 26, Regulation II, 1900.

4. In section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely :—

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have

estimated such royalty or the value of such share, for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Amendment of Sec. 29, clause (*a*), Regulation II, 1900.

5(*a*) In section 29, clause (*a*), of the said Regulation, for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Substitution of new clause for clause (*b*) of Sec. 29, Regulation II, 1900.

(*b*) For section 29, clause (*b*), the following shall be substituted, namely:—

"(*b*) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance;

(*bb*) in the case of a policy of fire-insurance—by the person issuing the policy."

Addition to section 30, Regulation II, 1900.

6. To section 30 of the said Regulation, the following paragraph shall be added, namely:

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

Amendment of section 40 (1) (*b*), Regulation II, 1900.

7. In section 40, sub-section (1), clause (*b*), of the said Regulation, before the words "ten times the amount," the words "an amount not exceeding" shall be inserted.

Amendment of section 51, Regulation II, 1900.

8. In section 51 of the said Regulation, after the words "instruments," the words "by any banker or," and after the word "said," the word "banker" shall be inserted.

Amendment of section 56, (1) Regulation II, 1900.

9. In Section 56, sub-section (1), of the said Regulation, after the word and figure "Chapter V," the following shall be inserted, namely:—

"and under clause (*a*) of the first proviso to section 26."

Amendments of Schedule I, Regulation II, 1900.

10. In Schedule I of the said Regulation, the following amendments shall be made, namely:—

(1) For Article No. 6 the following shall be substituted, namely:—

"6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security): or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.

Exemption.

Instrument of pawn or pledge of goods, if unattested."

(2) In the entry immediately following Article No. 27, for the words and figure "*See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)" the words and figure "*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted.

(3) The entry "EQUITABLE MORTGAGE" following Article No. 28 shall be omitted.

(4) In Article No. 38—

(*a*) for the words and figure "An AGREEMENT TO MORTGAGE (No. 6)" the words and figure "An AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted;

(*b*) from clause (*b*), the words "at the time of execution" shall be omitted; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

(5) In Article No. 39—

(*a*) in clause (*b*) for the words "one year," the words "eighteen months" shall be substituted.

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*), the entry "Two annas" shall be substituted.

(6) After Article No. 44, the following entry shall be inserted, namely:—

"PAWN OR PLEDGE—*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)."

(7) For Divisions A and B of Article No. 45, the following shall be substituted, namely:—

	If drawn singly	If drawn in duplicate for each part
A. SEA-INSURANCE (*See* Section 7).		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy;	One anna ...	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	Two annas ...	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months;	Two annas ...	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ...	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000;	.....	Eight annas.
AND (ii) IN ANY OTHER CASE;	.....	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	.....	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 51."

(8) To Article No. 51 the following note shall be added, namely:—

"See also Policy of Insurance No. 45-B(2)."

(9) In Article No. 53, after the word "instrument," the following parenthesis shall be inserted, namely:—

"(not being such a release as is provided for by section 23A)."

Statement of Objects and Reasons.

Under clause (1) (*b*) of Section 40 of the Mysore Stamp Regulation, II of 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees, or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof." This gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example, in the case of an unstamped document which should have been written on a ten rupee stamp paper, the Deputy Commissioner must levy a penalty of either Rs. 5 or Rs. 100; that is to say, if the Deputy Commissioner considers a penalty of Rs. 5 to be insufficient in the circumstances of the case, he has no option but to levy a penalty of Rs. 100, and cannot demand any smaller sum. The hardship caused by this was brought to notice at the meeting of the Representative Assembly held in the year 1906 (General Subject No. 24). It is proposed to remedy this by inserting the words "an amount not exceeding" before the words "ten times the amount" in the said sub-section, *vide* clause 7 of the bill. It may be remarked that this amendment has already been made by Act XV of 1904 in the Indian Stamp Act, 1899, on which the Mysore Stamp Regulation is based.

2. The opportunity is also taken to introduce certain other amendments which have been made in the British Indian Act, by Acts XV of 1904 and V of 1906, so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India. Some of the amendments, *e.g.*, those relating to fire insurance and sea-insurance may not be of much consequence so far as Mysore is concerned; but since Regulation, II of 1900, does contain certain provisions in respect of such matters, it is considered desirable to include in the bill the amendments relating to these provisions also. The more important of the amendments are explained below.

Clauses 1(a) and 3.—Clause 1(*a*) defines the expression "marketable security." This definition is necessary in connection with the new Section 23 A—*vide* clause 3—by which it is proposed to levy a fixed fee of eight annas only instead of the fees prescribed in Article 6 of Schedule I, when the security deposited by way of equitable mortgage is marketable.

4. *Clause 1* (*c*) suggests an addition to the definition of "Settlement" with the object of preventing the evasion of stamp-duty imposed on settlements, which it is now possible to effect by the simple expedient of first making an oral disposition of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the settler and the trustees join. Such an instrument is only chargeable with a stamp duty of Rs. 15 under Article 62 instead of with the heavier duty imposed by Article 56. The proposed addition to the definition will have the effect of requiring such instruments in future to be stamped as settlements.

5. *Clauses 4 and 9.*—Under Section 26 of the Regulation where the value of the subject matter of an instrument is unknown or indeterminate, the contracting parties may use their discretion as to the value of the stamp to be affixed to the instrument but no sum can be recovered under it in excess of the amount covered by the duty actually paid. An exception is, however, made in the case of mining leases in which a royalty or share of the produce is reserved as rent. The value of the share or royalty is necessarily indeterminate in the majority of such cases, and it is, therefore, provided that, if the lease be stamped on an assumed valuation of Rs. 20,000 a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is considered unsuitable in the case of mining leases granted by the Government; for the natural tendency of Revenue Officers is to safeguard the interests of the Government by valuing the royalty at the figure just referred to in every case. The stamp-duty, ordinarily payable on this valuation, is Rs. 200; and this constitutes a heavy burden in the case of small and unproductive mines. It is proposed, therefore, by clause 4 of the bill, to expand the section so as to provide that, where a mining lease is granted by the Government, the Deputy Commissioner may estimate the amount of royalty which he considers likely to be payable, and it will be sufficient if the lease is stamped in accordance with his estimate. Clause 9 provides for the revision of the Deputy Commissioner's decision in such cases by the Chief Controlling Revenue authority.

6. *Clauses 5 (b), 6 and 10 (7).*—This is a group of clauses relating to the duty on fire and marine insurance policies. The present rates for fire insurance policies

prescribed by Article 45 (B) of Schedule I are considered unequal and unduly high. It is accordingly proposed in clause 10 (7) of the bill to substitute, for the present rates which vary according to the amount or the period of the policy, a uniform duty of eight annas in respect of every fire insurance policy, when the sum insured is less than Rs. 5,000, of Re. 1 in other cases, and half these duties (in addition to the usual stamp duty of one anna for receipts given) on every payment of premium or consideration for any renewal of a contract of fire insurance (Clause 6). Under this arrangement the liability to stamp the policies and receipts is imposed upon the companies which issue them [Clause 5 (*b*)]. Clause 10 (7) legalises an existing but unauthorised practice of dividing the stamp duty payable on marine insurance policies between copies drawn in duplicate.

7. *Clause 8* admits private banking firms to the benefit allowed by Section 51 of the Regulation in regard to the refund of the value of unused stamp papers.

8. *Clause 10 (1).*—In Article 6 of Schedule I, the term "Equitable mortgage" is not clear enough to comprehend all the transactions intended to be denoted by it. There appears to be some doubt as to whether pawns and pledges come under the article. Other defects and anomalies noticed in the same connection are (*a*) want of provision therein for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year, or (*b*) for the case where the advance secured is repayable on demand. It is proposed, in clause 10 (1), to amplify the article so as to define more clearly the nature of the transaction intended to be covered. Pawns and pledges are specifically mentioned and the reference to 'hypothecation' has been omitted ; thus all transactions of the nature of hypothecation—*i.e.*, where movable property is simply appropriated by way of security for the discharge of a debt or engagement without parting with its possession—are outside the scope of the article. It is proposed to impose the same duty on a document securing repayment after more than one year as that on a document securing repayment within one year; and documents securing repayment on demand are to be liable to the same duty as that on documents securing repayment after more than three months. Finally, it is proposed to place all documents, whether their execution is or is not simultaneous with the advances secured by them, on the same footing.

9. *Clause 10 (5).*—Stamp duties on certain mortgages of crops are reduced from four annas to two annas as well as the duty on mortgages of crops when the loan is repayable in more than twelve but not more than eighteen months.

10. The other amendments are purely consequential and require no explanation.

No. 3437

H. no. 17-0607
S no. 5

From

F. P. RENNIE, Esq., I. C. S.,
FIRST ASSISTANT to the RESIDENT in MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 3rd July 1908.

Sir,

I am directed to acknowledge the receipt of Mr. Balasundaram Iyer's letter No.896 dated the 6th May 1908, forwarding a bill to amend the Mysore Stamp Regulation 1900 (II of 1900) which the Mysore Durbar propose to pass into law.

2. In reply, I am to convey the sanction of the Government of India to the draft bill on the condition that the Governor-General-in-Council retains over it the power and authority which vests in him by virtue of Article 19 of the Instrument of Transfer.

I have the honour to be,

Sir,

Your most obedient servant,

F. P. Rennie
First Assistant Resident.

Leg File No 17-06
Serial No 6

All

Diary No. of letter replied to ___

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT
( )

the 190

Date of issue 21-7-08

Signed by — W S B Gopalachar

READ—

(52)

ORDER THEREON.—No. D 2420/Legis 17-0607
Ordered that the accompanying Regulation to amend the Telegone Stamp Regulation II of 1900, which received the assent of His Highness the Maharaja on the 11th July 1908 be published for general information

11/7/08
Secretary
Over

SUBJECT— Re Telegone Stamp Regulation. An intimation with a copy of the Regulation II of 1908 with a request that 150 copies of the Regulation may be sent to this office and 150 forwarded to the Consul for sale, with intimation as to the price thereof. Proposal should be sent for orders

Secretary

GPB—7,000—1-3-07

Copied 21/7

Leg File No. 17-06
Serial No 6

nil

Diary No. of letter replied to —

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

READ—

(52)

the 190

ate of issue 21-7-08

Signed by — Sd/- S. Krishnaswamy Iyengar

ER THEREON.—No. Je 244/acqrs 17-0607
Ordered that the accompanying Regulation to amend the Telegone Stamp Regulation II of 1900 which received the assent of H.H. the Maharaja on the 11th July 1908 be published for general information

Sd/- [illegible]
Secretary
over

SUBJECT— Re Telegraph Stamp Regulation, Application, with 2 copies of the Regulation II of 1908 with the request that 150 copies of the Regulation may be sent to this office and 150 remitted to the Canada for sale, with information as to the price thereof & steps should be taken for Circulation

GPB—7,000—1-3-07

Sd/- 21/7/08

Copied [illegible] 21/7

REGULATION No. II OF 1908.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 11TH JULY 1908.)

A Regulation to amend the Mysore Stamp Regulation, II of 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows :—

1. In Section 2 of the Mysore Stamp Regulation, II of 1900 ; (hereinafter referred to as the "said Regulation")—

Amendment of Sec. 2, Regulation II, 1900.

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely :—

"(16A). "Marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

Marketable security.

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed ; and

(*c*) to the definition of "settlement" in clause (24), the following words shall be added, namely :—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

2. In section 11, clause (*a*), section 32, proviso, clause (*c*), section 35, proviso clause (*a*), section 40, section 41, section 69 and section 74 of the said Regulation, after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Amendment of Secs. 11, 32, 35, 40, 41, 69 and 74, Regulation II, 1900.

3. After section 23 of the said Regulation, the following section shall be added, namely :—

Addition of new Sec. 23A after Sec. 23, Regulation II, 1900.

"23A (1). Where an instrument (not being a promissory note or bill of exchange),

"Certain instruments connected with mortgages of marketable securities to be chargeable as agreements."

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt ; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

4. In section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely :—

Amendment of Sec. 26, Regulation II, 1900.

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard

to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Amendment of Sec. 29, clause (*a*), Regulation II, 1900.

5. (*a*) In section 29, clause (*a*), of the said Regulation, for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Substitution of new clause for clause (*b*) of Sec. 29, Regulation II, 1900.

(*b*) For section 29, clause (*b*), the following shall be substituted, namely:—

"(*b*) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance;

(*bb*) in the case of a policy of fire-insurance—by the person issuing the policy."

Addition to section 30, Regulation II, 1900.

6. To section 30 of the said Regulation, the following paragraph shall be added, namely:—

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

Amendment of section 40 (1) (*b*), Regulation II, 1900.

7. In section 40, sub-section (1), clause (*b*), of the said Regulation, before the words "ten times the amount," the words "an amount not exceeding" shall be inserted.

Amendment of section 51, Regulation II, 1900.

8. In section 51 of the said Regulation, after the word "instruments," the words "by any banker or," and after the word "said," the word "banker" shall be inserted.

Amendment of section 56 (1), Regulation II, 1900.

9. In Section 56, sub-section (1), of the said Regulation, after the word and figure "Chapter V," the following shall be inserted, namely:—

"and under clause (*a*) of the first proviso to section 26."

Amendments of Schedule I, Regulation II, 1900.

10. In Schedule I of the said Regulation, the following amendments shall be made, namely:—

(1) For Article No. 6 the following article shall be substituted, namely:—

"6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security); or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.

Exemption.

Instrument of pawn or pledge of goods, if unattested."

(2) In the entry immediately following Article No. 27, for the words and figure "*See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)" the words and figure "*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted.

(3) The entry "EQUITABLE MORTGAGE" following Article No. 28 shall be omitted.

(4) In Article No. 38—

(*a*) for the words and figure "An AGREEMENT TO MORTGAGE (No. 6)" the words and figure "An AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted;

(*b*) from clause (*b*), the words "at the time of execution" shall be omitted; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

(5) In Article No. 39—

(*a*) in clause (*b*) for the words "one year," the words "eighteen months" shall be substituted.

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*), the entry "Two annas" shall be substituted.

(6) After Article No. 44, the following entry shall be inserted, namely:—

"PAWN OR PLEDGE—*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)."

(7) For Divisions A and B of Article No. 45, the following shall be substituted, namely:—

	If drawn singly.	If drawn in duplicate for each part.
"A. SEA-INSURANCE (*See* Section 7).		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy;	One anna ...	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	Two annas ...	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months;	Two annas ...	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ...	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000;	.....	Eight annas.
and (ii) in any other case;	.....	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	.....	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 51."

(8) To Article No. 51 the following note shall be added, namely:—

"See also Policy of Insurance No. 45-B(2)."

(9) In Article No. 53, after the word "instrument," the following parenthesis shall be inserted, namely:—

"(not being such a release as is provided for by section 23A)."

V. P. MADHAVA RAO,
Dewan.

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1907.

FILE No. 17 OF 1906-07.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIAT.

JUDICIAL AND LEGISLATIVE (LEGISLATION.)

JULY 1908.

"A" Collection. Serial Nos. 1—6.

Amendment of the Mysore Stamp Regulation, II of 1900 (Dasara Subject No. 24 of 1906).

TABLE OF CONTENTS.

Serial No. of File	Number and date of letter and contents	Reference	Page in Progs.
1	To the Superintendent, Government Press, No. J. 3187, dated the 20th April 1908. Forwards a copy of the Bill as passed by the Legislative Council and requests him to print and forward 50 copies thereof.		1—6
2.	To the First Assistant Resident in Mysore, No. Pol. 896, dated the 6th May 1908. Forwards the above Bill and requests him to obtain the sanction of the Government of India for its being passed into Law.		6
3	D. O. No. 2700, dated the 20th May 1908, from Mr. F. P. Rennie, First Assistant Resident in Mysore, to the Dewan. Suggests the insertion of the words "exceeding six months and not" in the last sentence of clause 10 (7) A (2) of the draft Bill as is to be found in clause 7 (3) A (2) of the British Indian Act, V of 1906.		6
4.	D. O. letter No. 963, dated the 27th May 1908, to the same officer. States that the omission was due to a clerical error and forwards copies of corrected Bill.		6—11
5.	Letter No. 3437, dated the 3rd July 1908, from the First Assistant Resident in Mysore, to the Dewan. Conveys the sanction of the Government of India to the Bill subject to the usual condition.		11
6	To the Compiler, *Mysore Gazette*, No. J. 246, dated the 21st July 1908. Orders the publication of this Bill as Regulation II of 1908.		11—14

1906-7

GENERAL AND REVENUE SECRETARIAT

(LEGISLATION.)

NOTES.

File No. 17.

Amendment of Stamp Regulation, II of 1900. (Dasara Subject No. 24 of 1906.)

Summary of discussion.—Section 40 (*b*) enacts that a penalty of Rs. 5 or of ten times the proper duty or of the deficient portion thereof, should be levied. This is very hard. The Deputy Commissioner has no discretion in the matter when he thinks that a penalty of Rs. 5 is too small and the alternative penalty is too high. To obviate this difficulty the section may be amended by inserting the words "of a sum not exceeding" between "if he thinks fit" and "ten times the amount," etc. Section 37 of the old Act (I of 1879) gave such a discretion.

Subject No. 24.
Amendment of Stamp Regulation, II of 1900.
Mr. S. R. Balakrishna Rao, B. A., L. B., Shimoga Municipality.

Section 35, (*a*) may also be amended as above suggested.

Reply of Government.—The point will be noted for needful action when the Stamp Regulation is next taken up for revision.

1. This will be filed for the present. Branch II will also be asked to note this.

T. K. S.

S. N.
21-11-06.

2. I have put up the draft of an amending Regulation with a statement of objects and reasons. The hardship brought to notice is a real one, and I submit that we need not wait for a general revision of the Stamp law, to have it remedied.

K. MATTHAN.
22-12-06.

3. Should not section 35, proviso (*a*), be similarly amended? *Vide* second para of the summary of discussion.

K. S. CHANDRASEKHARA AIYAR.
28-12-06

4. I think it is unnecessary to amend section 35, proviso (*a*). The amount fixed in 35 (*a*) is different from that fixed in 40 (1) (*b*)—the difference being that, while the Deputy Commissioner has some discretion in the amount of penalty to be levied, a court admitting in evidence an unstamped or insufficiently stamped document is given no discretion, but is required to recover the maximum penalty leviable. The intention of the legislature is apparently not to give any discretion to the court; but if the amount which the court has to levy is disproportionately large, the Deputy Commissioner is authorised by section 39 (1) to refund any portion of the penalty in excess of five rupees. What I mean is that section 39 (1) obviates the necessity to amend section 35, proviso (*a*).

I think so also.
K. S. C.

K. MATTHAN,
28-12-06.

Draft of a Regulation to amend the Mysore Stamp Regulation, 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows:—

Preamble.

1. In clause (*b*) of sub-section (1) of section 40 of the Mysore Stamp Regulation, 1900, the words "of five rupees; or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees" shall be omitted, and the following shall be added at the end of the said clause, namely:—

Amendment of Section 40, Regulation II of 1900.

"A penalty not less than five rupees and not exceeding ten times the amount of the proper duty or of the deficient portion thereof, if ten times such duty or portion exceeds five

rupees; and not exceeding five rupees and not less than ten times the amount of the proper duty or of the deficient portion thereof, if ten times such duty or portion does not exceed five rupees."

Statement of Objects and Reasons.

Under section 40 (1) (*b*) of the Mysore Stamp Regulation, 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees, or if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees." In the Indian Stamp Act, 1879, which was the law in force in Mysore before the Regulation of 1900 was passed, the words relating to the amount of the penalty were as follows:— "a penalty of five rupees, or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion as he thinks fit.

2. Section 40 (1) (*b*) of the Regulation of 1900 is based on the provisions of the Indian Stamp Act of 1899. The object of the alteration which the Act of 1899 made in the provision as to the amount of the penalty to be demanded is thus explained at para 11 of the report of the Select Committee to which the measure was referred:—

"As the law at present stands, the Collector may either impose a penalty of five rupees or a penalty of ten times the amount of the proper duty, provided that such amount does not fall short of five rupees. We think that the Collector should have a discretion to take ten times the amount of the proper duty even though that may not amount to five rupees, *e.g.*, if the amount of the duty were two annas, he might be allowed to impose a penalty of Re. 1-4-0."

3. While the alteration gives to the Deputy Commissioner the power to levy a penalty less than five rupees in certain cases, a power which he did not before possess, it has also operated to deprive the Deputy Commissioner of a discretionary power which he possessed under the old law, namely, to levy a penalty less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example in the case of an unstamped document which should have been written on a ten-rupee stamp paper, the old law gave to the Deputy Commissioner a discretionary power to levy anything between Rs. 5 and Rs. 100; while under the present law, the penalty must be either Rs. 5 or Rs. 100, that is to say, if the Deputy Commissioner considers a penalty of Rs. 5 to be insufficient in the circumstances of the case, he must levy a penalty of Rs. 100 and cannot demand any smaller sum. The hardship caused by this was brought to notice at the last meeting of the Representative Assembly (General Subject No. 24). The Draft Regulation has for its object the removal of this hardship, by giving sufficient discretion to the Deputy Commissioner.

K. MATTHAN.
28-12-06.

K. S. CHANDRASEKHARA AIYAR.
28-12-06.

5. Thanks. The draft Regulation is all right, and may be sent up to the Residency for obtaining the sanction of the Government of India.

K. S. CHANDRASEKHARA AIYAR.
28-12-06.

6. At one time I was in favor of the proposed amendment and it is quite possible that I expressed myself to that effect in words spoken or written. On second thoughts, however, I consider the amendment unnecessary. The Stamp laws have now been two generations or more in existence. They are well known and they have ceased to be the snares to the unwary that they were in the earlier days. The vast majority of cases of unstamped or deficiently stamped documents are rather cases of wilful evasion of stamp duty than otherwise. And it has to be noted that the cases which do turn up into notice in Courts and Cutcherries are but a small fraction of those that do not turn up at all. The present penalty is Rs. 5 or ten times the deficiency whichever is the greater of the two. To reduce this would be but giving a premium to evaders of stamp duty, and to diminish the risks attaching to such evasion. This is the less desirable in Mysore where the Comptroller has pointed out how stamp revenue has not been progressing as it has done in British India and where suspicions of evasion of stamp duty are greater. Moreover, the amount of penalty to be levied between Rs. 5 and ten times the deficiency is by the amendment proposed to be left to the Deputy Commissioner's discretion. The lines on which this discretion has to be exercised, are not indicated and in the nature of things cannot be. The action of Deputy Commissioners should thus turn out to be varied and somewhat arbitrary. To any one who says that the existing penalty is heavy, the answer is that the facilities for avoiding such penalties by ascertaining the correct stamp to be adopted are great; and therefore there is the less reason for running the risk of incurring such penalty. If under section 31 or section 41 of the Stamp Regulation a person can readily ascertain and pay the proper amount

of stamp duty by a reference to the Deputy Commissioner there is no reason why he should not do so, but adopt a deficient duty and take the chances of securing a wrongful gain to himself to the prejudice of the State Revenue. And lastly in cases in which the existing penalty may press hard, section 45 provides for the "Chief Controlling Revenue Authority" granting relief.

T. ANANDA ROW,
1st Councillor.
13th February 07

7. When I was in charge of districts as a Deputy Commissioner I have often felt the inconvenience of the present rule whereby it is rendered imperative to charge ten times the duty in cases in which a penalty of Rs. 5 is considered inadequate. This works out all right in cases where ten times the stamp duty is less than Rs. 5. The law expressly sanctions the levy of the lesser penalty in such cases. But the hardship becomes apparent in the class of cases in which the alternative penalty of ten times the duty exceeds Rs. 5. There have been cases in which the penalty of Rs. 5 was too little and ten times the duty would have been crushing. What was wanted was a *via media* power to levy a penalty in excess of Rs. 5 but within the limit of ten times the duty. In the absence of this provision I was often obliged in fairness to the parties to order the levy of the lesser penalty of Rs. 5, whereas if I had the power now proposed to be given I should have levied a penalty of Rs. 20 or 30 or 40 instead of the minimum of Rs. 5.

The Deputy Commissioners can be safely trusted to exercise this power with due regard to public interests.

The proposed amendment is most equitable and may be adopted.

The existing penalty is not heavy, but it is ill assorted and the consequence is that the permissible lower penalty of Rs. 5 is often levied in cases justifying a higher penalty though not one of ten times the duty.

K. P. PUTTANNA CHETTY,
2nd Councillor.
14-2-07.

D. O., dated 20th March 1907, from Under-Secretary on duty with the Dewan.

I return file No. Legislative 17 of 1906, *re* amendment of section 40 (*b*) of the Stamp Regulation. On reference to the Stamp Act in force in British India, I find that sec. 40 (*b*) has been amended there in the same manner that we propose to do, by Act XV of 1904 (*vide* page 171 *et seq.* 9 of 2nd edition, 1906, of Jagannatha Aiyar's Indian Stamp Act). I don't know if you were aware of this, for in our file, I do not find any reference to the British Amendment by Act XV of 1904. Perhaps a reference to it may overcome the 1st Councillor's objections and will perhaps considerably curtail the statement of objects and reasons.

If you think that any reference to it may be made, kindly have the needful alterations made.

8. The Indian Stamp Act has been amended by (1) Act VI of 1900, (2) XV of 1904, (3) V of 1906.

(1) Is a slight amendment referring to Burma: we have nothing to do with it.

(2) Act XV of 1904 introduces many changes, the most important being the addition of a new section 23A, amendment of section 26, and of section 40 and the substitution of the new Article 6 of the 1st Schedule for the old one.

(3) Act V of 1906 mainly deals with fire insurance and lowers the rates of duty. Section 7 of this Act makes some minor changes.

S. P. RAJAGOPALACHIAR.
10-4-07

9. I am sorry it was not noticed that the Government of India had anticipated us, in the matter; this would have saved us much time, trouble and discussion.

(2) Our Legislative Branch (especially now that a Legislative Council has been formed) should keep itself acquainted with current legislation elsewhere, and particularly in British India.

(3) Please prepare a Draft Regulation incorporating once for all, such of the changes effected in the Indian Stamp Act as are adapted to local conditions, and submit early with a statement of objects and reasons.

K. S. CHANDRASEKHARA AIYAR.
16-4-07.

10. Will Mr. Rajagopalachar prepare a draft Regulation?

K. MATTHAN.

20-4-07.

11. A draft Regulation with statement of objects and reasons put up. The Draft Regulation embodies most of the sections of Acts XV of 1904 and V of 1906. I would invite attention as to the necessity of introducing the provisions contained in clauses 3 and 5 (*b*), 6 and 10 (7) of the Draft Regulation. The former deals with "marketable securities"; while the latter three are a group of clauses dealing with fire insurance policies. All the other provisions may be adopted.

Para 4 in statement of objects and reasons.

S. P. RAJAGOPALACHAR.

29-4-07.

12. The draft Regulation put up by Mr. Rajagopalachar includes all the amendments hitherto made in British India to the Stamp Act.

(1) Of these, those contained in clauses 1, 3 and 10 (9) form one group which takes cases of deposit of marketable securities out of the general class of cases relating to deposit of title-deeds provided for in Art. 6 of Schedule I, and reduce the stamp duty in such cases to a uniform rate of 8 annas instead of an *ad valorem* duty as at present (Art. 6). Whether cases of deposit of marketable securities like Government of India Pro-Notes or Mysore Government debentures) as contemplated in clause 3 (new sec. 23A) occur at all in commercial transactions in Mysore or if they do occur, whether such cases are so common that the existing duties are felt to be unduly high, is extremely doubtful.

(2) Clauses 1 (*b*), 2, 5 (*b*), 6 and 10 (7) form another group and relate to fire insurance and marine insurance. Clause 10 (7) A legalises an existing practice in connection with marine insurance of dividing the stamp duty of insurance policies between copies drawn in duplicate. Clause 2 introduces certain consequential changes. The remaining clauses of this group, *viz*, 1 (*b*), 5 (*b*), 6 and 10 (7) B relate to fire insurance business—the principal alteration being that the rate of duty is reduced, and made payable by the person issuing instead of by the person taking out the policy. I do not think that we require these amendments in Mysore. There are, of course, no marine insurance companies in Mysore and I do not believe there are any fire insurance companies either. It may be that people do take out fire insurance policies, but such policies will be governed by the law of the place whence they are issued. These clauses may therefore be omitted.

(3) Clause 1 (*c*) makes an addition to the definition of the word "settlement." The necessity for the addition is explained in para 2 of Mr. Rajagopalachar's statement of object and reasons. This clause may be adopted.

(4) The next group of clauses 4 and 9 relate to the stamp duty on mining leases. *Vide* para 3 of statement of objects and reasons. It is possible that in the case of mining leases for manganese and other minor minerals, the stamp duty may be a little too high. But we have received no such representation; and I believe the terms regarding royalty are extremely favourable to licensees. If it is considered necessary to investigate the point, the Geological Secretariat will be consulted.

(5) Clauses 5 (*a*), 10 (1) (2) (3) (4) and (6) form another group, of which 10 (1) is the principal amendment. By this amendment the term "equitable mortgage" is removed and a more comprehensive definition of the transactions intended to be included (including also powers of pledgees) is introduced. Please see para 7 of statement of objects and reasons. Clauses 5 (*a*), 10 (2) (3) (4) (*a*) and 10 (6) introduce consequential changes. 10 (4) (6) and (*c*) make some minor alterations. These may be adopted.

(6) Clause 7 introduces the change in regard to the penalty for deficiency in stamp in connection with which the amendment of the Stamp Regulation was first taken up. This clause must of course be adopted.

(7) Clause 8. Please see para 6 of the statement of objects and reasons. May be adopted.

(8) Clause 10 (5). Please see para 8 of statement of objects and reasons. May be adopted.

Clause 7 must be adopted. It is really what we want. The necessity for the other amendments has not been felt. But if it is considered desirable to bring our law into conformity with what it is in British India, we may also adopt 1 (*c*), 5 (*a*), 8, 10 (1), (2), (3), (4) (5) and (6). Clauses 1, 3, 10 (9), 4 and 9 are doubtful. The other clauses are not wanted at all.

If instructions are given as to which of the amendments are to be taken, I shall submit a revised statement of objects and reasons.

K. MATTHAN.

21-5-07.

13. As personally instructed, a revised statement of objects and reasons including al the amendments is put up. A typed copy of the draft Regulation with revised margina abstracts is also put up.

K. MATTHAN.
29-5-07.

14. Resubmitted to the Councillors under the circumstances indicated in my note of 16th April 1907.

K. S. CHANDRASEKHARA AIYAR.
1-6-07.

15. The amendments proposed may be adopted in their entirety. Most of them are applicable to local circumstances, *e.g.*, (1) mining leases, the present minimum of Rs. 20,000 is simply prohibitive for manganese mines.

(2) Marketable securities. The new clause will afford facilities to trade.

(3) Equitable mortgage.

(4) Refund of value of unused stamp papers to private bankers.

(5) Reduction of duty on mortgages of crops.

(6) Penalty to be levied for unstamped or insufficiently stamped documents.

(7) Extending the definition of "settlement" so as to include an oral disposition of property.

The only provisions which seem out of place are those relating to fire and sea insurance. But I see no harm in retaining them.

K. P. PUTTANNA CHETTY,
2nd Councillor.
4-6-07.

16. The amendments may be adopted.

T. ANANDA ROW,
1st Councillor.
10-6-07.

17. Please put up the draft of the usual D. O. to the Resident before obtaining the Dewan's permission to place this before the Legislative Council.

The draft may be submitted to Dewan direct.

K. S. CHANDRASEKHARA AIYAR.
11-6-07.

18. Submitted to the Dewan with the draft of a D. O. letter to the Resident.

K. MATTHAN.
11-6-07.

19. The D. O. has been issued and the file resubmitted.

B. V. L.
15-6-07.

D. O. No. 611-2, dated the 14th June 1907, from V. P. Madhava Rao Esq., C.I.E., Dewan, to the Resident.

I herewith send the draft of a Regulation to amend the Mysore Stamp Regulatio II of 1900, together with a statement of objects and reasons, which fully explains the natu and scope of the proposed amendments.

It is intended to place the measure before the Legislative Council, which will soon come into existence, but before doing so, I should like to be informed of your opinion as to the proposed Legislation.

D. O. Camp No. 22, dated 28th June 1907, from F. P. Rennie Esq., First Assistant Resident Mysore, to the Dewan.

I am desired to acknowledge with thanks the receipt of your D. O. letter No. 611—2, dated the 14th June 1907, enclosing a draft Regulation to amend the Mysore Stamp Regulation, II of 1900, and to say that the Officiating Resident has no objection to the proposed legislation which, as you are of course aware, requires ultimately the sanction of the Government of India.

20. Now that the Residency has replied stating that the Resident has no objection, it is to be determined whether the Stamp Regulation Amendment Bill also is to be introduced

at the first meeting of the Legislative Council. We have already four measures to be placed before the Council at the first meeting. Perhaps this may wait till the second meeting or so.

S. P. RAJAGOPALACHAR.

2-7-07.

21. Yes, but I suppose certain preliminaries have to be gone through. I believe it has to be published after leave to introduce it is granted. In the first meeting only a motion for leave to introduce it may be made. Even for that I suppose it will have to be settled who should introduce the Bill. Please put up separately a short memo showing the various formalities to be observed, with references to the sections of the Legislative Council Regulation and Rules thereunder, for the information of the members of the Council.

Submit this file to 1st Councillor for instructions as to who will introduce the Bill.

C. S. BALASUNDARAM IYER.

3-7-07.

22. If the Dewan has no objection, one of the non-official members may be asked (Mr. C. Srinivasa Iyengar or Mr. Rangiengar).

T. ANANDA ROW.

1-8-07.

23. Submitted to Dewan. Perhaps the Government Advocate may be asked to introduce the Bill, if the above suggestion is not approved.

C. S. BALASUNDARAM IYER.

1-8-07.

Dewan's Order.

24. The Revenue Commissioner may be requested to introduce the Bill.

By Order,

K. MATTHAN.

3-8-07.

25. Assistant Secretary, Branch III. Please consult Revenue Commissioner accordingly.

C. S. BALASUNDARAM IYER.

5-8-07.

26. Forwarded unofficially to the Revenue Commissioner with the request that he may kindly introduce the Bill.

K. MYLAR RAO.

6-8-07.

27. Permission to introduce the Bill before the Legislative Council was given at the meeting held on the 28th August 1907, and the Bill was introduced and read at the meeting held on the 20th January 1908 and was passed by the Council at the meeting held on the 24th February 1908. It now remains to get the sanction of the Government of India for the Bill being promulgated as law. A draft to the First Assisiant Resident is accordingly submittted for approval.

Perhaps the draft Regulation may also be got printed separately for copies being sent to the Residency.

T. K. S.

14-4-08.

28. A short letter to the Residency is put up. The amendments sought to be introduced are, word for word and letter for letter, the same as those already introduced in British India by Acts XV of 1904 and V of 1906. The statement of objects and reasons accompanying the bill explains the more important of the amendments and as that will also be forwarded to the Residency, it has been considered unnecessary to discuss them again in the draft letter. If the letter be approved, the bill and the statement of objects and reasons will be sent to the press and got printed again with the necessary alterations made. If, however, the letter be not approved, a draft will be put up on the lines of Mr. Rangaswami Iyengar's speech made at the time the leave of the Council was asked for introducing the bill (*vide* page 2 of the Abstract Proceedings dated 28th August 1907). It will be only a repetition of what is contained in the statement of objects and reasons.

K. MYLAR RAO.

16-4-08.

29. A short draft will do, I think. The draft put up may be approved.

C. S. BALASUNDARAM IYER.
16-4-08.

Please put up a fair draft.

The Bill and the statement of objects and reasons should be got printed again. Put up a draft to the Superintendent.

K. MYLAR RAO.
16-4-08.

Fair draft of the letter to the Residency and a draft of a letter to the Superintendent, Government Press, are submitted.

T. K. S.
18-4-08.

Issue the draft to the Superintendent.

Submit the draft to the Residency, to the 1st Councillor for approval.

K. MYLAR RAO.
19-4-08.

1. To the Superintendent, Government Press, No. J. 3187, dated the 20th April 1908.

Forwards a copy of the Bill as passed by the Legislative Council with a copy of the statement of objects and reasons and requests him to print and forward 50 copies thereof.

30. (1) Draft approved.

(2) It seems advisable to treat such references to the Residency as a Council matter and with this view to circulate this to the Second Councillor and the Dewan before issue.

T. ANANDA ROW.
20-4-08.

31. Draft may be approved.

K. P. PUTTANNA CHETTY.
21-4-08.

Submitted to His Highness.

32. (1) Under clause (1) (*b*) of section 40 of the Mysore Stamp Regulation, II of 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees; or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees." This gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. The hardship caused by this provision of the law was brought to the notice of Government at the meeting of the Representative Assembly in 1906, and, with a view to remedy this, it was considered desirable to amend the section by inserting the words "of a sum not exceeding" before the words "ten times the amount" in the said clause. A similar amendment has already been made (by Act XV of 1904) in the British Indian Stamp Act, 1899, on which the Mysore Stamp Regulation, 1900, is based.

(2) It was at the same time considered that the opportunity might be taken to introduce into the Mysore Stamp Regulation, certain other amendments which had been made in the British Indian Act by Acts XV of 1904 and V of 1906, so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India.

(3) A draft Regulation embodying all the amendments, the nature and scope of which are fully explained in the Statement of Objects and Reasons, was accordingly prepared, and, with the consent of the Hon'ble the Resident, was placed before the Legislative Council. The Bill has been considered and passed by the Council.

(4) The accompanying draft letter to the Residency, requesting that the sanction of the Government of India may be obtained for the Bill being promulgated as law, may be approved.

V. P. MADHAVA RAO.
24-4-08.

Order.

33. Approved.

K. R. W.,
His Highness the Maharaja of Mysore.
28-4-08.

34. Issue.

C. S. BALASUNDARAM IYER.
29-4-08.

2. To the First Assistant Resident in Mysore, No. Pol. 896, dated 6th May 1908.

Forwards the Bill and requests him to obtain the sanction of the Government of India for the Bill being passed into law.

3. D. O. No. 2700, dated the 20th May 1908, from Mr. F. P. Rennie, First Assistant Resident in Mysore, to Dewan.

Suggests the insertion of the words "exceeding six months and not" in the last sentence of caluse 10 (7) A (2) of the draft Bill as is to be found in section 7 (3) A (2) of the British Indian Act V of 1906.

35. As observed by Mr. Mylar Rao, the amendments are 'word for word and letter for letter the same as those already introduced in British India.' In Mr. Rajagopalachar's original manuscript draft the amendment in question was correctly copied. But in typing or printing one line of his has apparently been omitted. Instead of "exceeding six months and not exceeding twelve months" we have only "exceeding twelve months." Evidently therefore it is a clerical error.

Submitted with a draft reply.

B. SRINIVASIENGAR.
25-5-08.

4. D. O. letter No. 963, dated 27th May 1908, to the same officer.

Stating that the omission noted above was due to a clerical error and forwarding copies of corrected Bill.

5. From the First Assistant to the Hon'ble the Resident in Mysore, letter No. 3437, dated 3rd July 1908.

Conveys the sanction of the Government of India to the Bill to amend the Mysore Stamp Regulation (II of 1900) on the usual condition (*vide* Article 19 of the Instrument of Transfer).

36. Submitted. The Bill has been finally passed by the Legislative Council (*vide* Proceedings of 12th March 1908). This has now to be submitted to the Dewan for placing it before His Highness the Maharaja for orders as to the promulgation of the Bill as law (*vide* section 13, Legislative Council Regulation). Submitted with two copies of the Bill as finally approved by the Government of India.

C. R. D.
4-7-08.

S. N.
6-7-08.

S. P. RAJAGOPALACHAR.
6-7-08.

37. Submitted to Dewan.

K. S. CHANDRASEKHARA AIYAR.
8-7-08.

38. Submitted to His Highness. The Bill to amend the Mysore Stamp Regulation, II of 1900, has been approved by the Government of India, and I solicit sanction to its being promulgated as law.

V. P. MADHAVA RAO.
9-7-08.

Order.

39. Sanctioned.

K. R. W.
11-7-08.

40. Draft of order to the Compiler for publishing the Bill is submitted for approval.

After the draft issues, the file will be forwarded to the Legislative Council section, for announcement being made in the Legislative Council of the measure having been passed into law and for the Bill with the Dewan's signature being placed in the Council record.

T. K. S.
17-7-08.

S. N.
17-7-08.

S. P. RAJAGOPALACHAR.
17-7-08.

41. Issue.

K. S. CHANDRASEKHARA AIYAR.
18-7-08.

6. To the Compiler, Mysore Gazette, No. J. 246, dated the 21st July 1908.

Orders the publication of the Regulation.

42. Copies of the Regulation have to be forwarded to the Residency: this has been included in the draft forwarding copies of the Village Offices Regulation to the same.

T. K. S.

25-11-08.

FILE No. 17, 1906.

No. J. 3187, *dated* 20*th April* 1908, *to the Superintendent, Government Press, Bangalore.*

Has the honor to forward herewith the accompanying Bill to amend the Mysore Stamp Regulation, II of 1900, as passed by the Legislative Council with the Statement of objects and reasons therefor and to request that the same may be printed and 50 copies forwarded to the Legislative Branch of this office early, proofs being forwarded for correction before final copies are struck off. **Serial No. 1.**

DRAFT REGULATION TO AMEND THE MYSORE STAMP REGULATION, 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows:—

Amendment of Section 2, Regulation II, 1900.

1. In Section 2 of the Mysore Stamp Regulation, II of 1900, (hereinafter referred to as the "said Regulation")—

Government of India Act, XV of 1904, Section 2 (a)

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely:—

"(16A). "Marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

Marketable security.

Act V of 1906, Section 2.

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed; and

Act XV of 1904, Section 2, (b)

(*c*) to the definition of "settlement" in clause (21), the following words shall be added, namely:—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

Act V of 1906, Section 2.

Amendment of Sections 11, 32, 35, 40, 41, 69 and 74, Regulation II, 1900.

2. In Section 11, clause (*a*), Section 32, proviso, clause (*c*), Section 35, proviso, clause (*a*), Section 40, Section 41, Section 69 and Section 74 of the said Regulation, after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Addition of new Section 23A after Section 23, Regulation II, 1900.

3. After Section 23 of the said Regulation, the following section shall be added, namely:—

"Certain instruments connected with mortgages of marketable securities to be chargeable as agreements."

"23A. (1) Where an instrument (not being a promissory note or a bill of exchange),

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

Act XV of 1904, Section 4.

4. In Section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely :—

Amendment of Section 26, Regulation II, 1900.

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Act XV of 1904, Section 5.

5. (*a*) In Section 29, clause (*a*), of the said Regulation for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Amendment of Section 29, clause (*a*), Regulation II, 1900.

Act V of 1906, Section 4.

(*b*) For Section 29, clause (*b*), the following shall be substituted, namely :—

"(*b*) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance;

Substitution of new clause r clause (*b*) of Section 29, Regulation II, 1900.

(*bb*) in the case of a policy of fire insurance—by the person issuing the policy."

Act V of 1906, Sec. 6.

6. To Section 30 of the said Regulation, the following paragraph shall be added, namely :—

Addition to Section 30, Regulation II, 1900.

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

Act XV of 1904, Sec. 6.

7. In Section 40, sub-section (1), clause (*b*) of the said Regulation, before the words "ten times the amount" the words "an amount not exceeding" shall be inserted.

Amendment of Sec 40 (1) (*b*) of Regulation II, 1900.

Act V of 1906, Section 6.

8. In Section 51 of the said Regulation, after the word "instruments," the words "by any banker or" and after the word "said," the word "banker" shall be inserted.

Amendment of Sec. 51, Regulation II, 1900.

Amendment of Stamp Regulation, II of 1900. (Dasara Subject 24 of 1906.)

Act XV of 1904, Sec. 7.

9. In Section 56, sub-section (1) of the said Regulation, after the word and figure "Chapter V" the following shall be inserted, namely:—

Amendment of Sec. 56 (1) Regulation II, 1900.

"and under clause (*a*) of the first proviso to Section 26."

Act XV of 1904, Sec. 8 (1).

10. In Schedule I of the said Regulation, the following amendments shall be made, namely:—

Amendments of Schedule I, Regulation II, 1900.

(1) For Article No. 6 the following shall be substituted, namely :—

"6. Agreement relating to Deposit of Title-Deeds, Pawn or Pledge, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.

Exemption.

Instrument of pawn or pledge of goods, if unattested.

Act XV of 1904, Sec. 8 (2)

(2) In the entry immediately following Article No. 27, for the words and figure "See Agreement by way of equitable mortgage (No. 6)" the words and figure "See Agreement relating to deposit of Title-deeds, Pawn or Pledge (No. 6)" shall be substituted.

Act XV of 1904, Sec. 8 (3).

(3) The entry "Equitable mortgage" following Article No. 28 shall be omitted.

Act XV of 1904, Sec. 8 (4).

(4) In Article No. 38,

(*a*) for the words and figure "An Agreement to mortgage (No. 6)" the words and figure "An Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6)" shall be substituted;

(*b*) from clause (*b*), the words "at the time of execution shall be omitted; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

Act V of 1906, Sec. 7 (2)

(5) In Article 39—

(*a*) in clause (*b*) for the words "one year," the words "eighteen months" shall be substituted.

Act XV of 1904, Sec. 8 (5)

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*), the entry "two annas" shall be substituted.

Act XV of 1904, Sec. 8 (6)

(6) After Article 44, the following entry shall be inserted, namely :—

Pawn or Pledge—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6)

(7) For Divisions A and B of Article No. 45, the following shall be substituted, namely :—

	If drawn singly	If drawn in duplicate for each part
"A. SEA-INSURANCE (*See* Section 7).		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eight per centum of the amount insured by the policy ;	One anna ...	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	Two annas	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy		
1. where the insurance shall be made for any time not exceeding six months;	Two annas	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000;	.....	Eight annas
(ii) in other cases;	.....	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of any original policy.	.....	One-half of the duty payable in respect of the original policy in addition to any amount chargeable under No. 51."

Act V of 1906, Sec. 7 (4).

(8) To Article No. 51, the following note shall be added, namely :—

"See also Policy of Insurance No. 45-B (2)."

Act XV of 1904, Sec. 8 (7).

(9) In Article No. 53, after the word "instrument," the following parenthesis shall be inserted, namely :—

"(not being such a release as is provided for by Section 23A)."

Statement of Objects and Reasons.

Under clause (1) (*b*) of Section 40 of the Mysore Stamp Regulation, II of 1900, the penalty which the Deputy Commissionar shall demand for unstamped or insufficiently stamped documents is "five rupees, or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof." This gives no discretion to the Deputy Commissioner to levy a penallty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example, in the case of an unstamped document which should have been written on a ten rupee stamp paper, the Deputy Commissioner must levy a penalty of either Rs. 5 or Rs. 100; that is to say, if the Deputy Commissioner considers a penalty of Rs. 5 to be insufficient in the circumstances of the case, he has no option but to levy a penalty of Rs. 100, and cannot demand any smaller sum. The

Amendment of Stamp Regulation, II of 1900. (Dasara Subject No. 24 of 1906.)

hardship caused by this was brought to notice at the meeting of the Representative Assembly held in the year 1906 (General Subject No. 24). It is proposed to remedy this by inserting the words "an amount not exceeding" before the words "ten times the amount" in the said sub-section, *vide* clause 7 of the Draft Regulation. It may be remarked that this amendment has already been made by Act XV of 1904 in the Indian Stamp Act, 1899, on which the Mysore Stamp Regulation is based.

2. The opportunity is also taken to introduce certain other amendments which have been made in the British Indian Act, by Acts XV of 1904 and V of 1906, so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India. Some of the amendments, *e.g.*, those relating to fire insurance and sea-insurance may not be of much consequence so far as Mysore is concerned; but since Regulation II of 1900 does contain certain provisions in respect of such matters, it is considered desirable to include in the Draft Regulation the amendments relating to these provisions also. The more important of the amendments are explained below.

3. *Clauses 1(a) and 3.*—Clause 1(*a*) defines the expression "marketable security." This definition is necessary in connection with the new Section 23 A—*vide* clause 3—by which it is proposed to levy a fixed fee of eight annas only instead of the fees prescribed in Article 6 of Schedule I, when the security deposited by way of equitable mortgage is marketable.

4. Clause 1 (*c*) suggests an addition to the definition of "Settlement" with the object of preventing the evasion of stamp duty imposed on settlements, which it is now possible to effect by the simple expedient of first making an oral disposition of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the settler and the trustees join. Such an instrument is only chargeable with a stamp duty of Rs. 15 under Article 62 instead of with the heavier duty imposed by Article 56. The proposed addition to the definition will have the effect of requiring such instruments in future to be stamped as settlements.

5. *Clauses 4 and 9.*—Under Section 26 of the Regulation where the value of the subject matter of an instrument is unknown or indeterminate, the contracting parties may use their discretion as to the value of the stamp to be affixed to the instrument but no sum can be recovered under it in excess of the amount covered by the duty actually paid. An exception is, however, made in the case of mining leases in which a royalty or share of the produce is reserved as rent. The value of the share or royalty is necessarily indeterminate in the majority of such cases, and it is, therefore, provided that, if the lease be stamped on an assumed valuation of Rs. 20,000 a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is considered unsuitable in the case of mining leases granted by the Government; for the natural tendency of Revenue Officers is to safeguard the interests of the Government by valuing the royalty at the figure just referred to in every case. The stamp-duty, ordinarily payable on this valuation, is Rs. 200; and this constitutes a heavy burden in the case of small and unproductive mines. It is proposed, therefore, by clause 4 of the Draft Regulation, to expand the section so as to provide that, where a mining lease is granted by the Government, the Deputy Commissioner may estimate the amount of royalty which he considers likely to be payable, and it will be sufficient if the lease is stamped in accordance with his estimate. Clause 9 provides for the revision of the Deputy Commissioner's decision in such cases by the Chief Controlling Revenue authority.

6. *Clauses 5 (b), 6 and 10 (7).*—This is a group of clauses relating to the duty on fire and marine insurance polices. The present rates for fire insurance polices prescribed by Article 45 (B) of Schedule I are considered unequal and unduly high. It is accordingly proposed in clause 10 (7) of the Draft Regulation to substitute, for the present rates which vary according to the amount or the period of the policy, a uniform duty of eight annas in respect of every fire insurance policy, when the sum insured is less than Rs. 5,000, of Re. 1 in other cases, and half these duties (in addition to the usual stamp duty of one anna for receipts given) on every payment of premium or consideration for any renewal of a contract of fire insurance (Clause 6). Under this arrangement the liability to stamp the policies and receipts is imposed upon the companies which issue them [Clause 5 (*b*)]. Clause 10 (7) legalises an existing but unauthorised practice of dividing the stamp-duty payable on marine insurance policies between copies drawn in duplicate.

7. Clause 8 admits private banking firms to the benefit allowed by Section 51 of the Regulation in regard to the refund of the value of unused stamp papers.

8. *Clause 10 (1).*—In Article 6 of Schedule I, the term "Equitable mortgage" is not clear enough to comprehend all the transactions intended to be denoted by it. There appears

to be some doubt as to whether pawns and pledges come under the article. Other defects and anomalies noticed in the same connection are (*a*) want of provision therein for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year, or (*b*) for the case where the advance secured is repayable on demand. It is proposed, in clause 10 (1), to amplify the article so as to define more clearly the nature of the transaction intended to be covered. Pawns and pledges are specifically mentioned and the reference to 'hypothecation' has been omitted; thus all transactions of the nature of hypothecation—*i.e.*, where movable property is simply appropriated by way of security for the discharge of a debt or engagement without parting with its possession—are outside the scope of the article. It is proposed to impose the same duty on a document securing repayment after more than one year as that on a document securing repayment within one year; and documents securing repayment on demand are to be liable to the same duty as that on documents securing repayment after more than three months. Finally, it is proposed to place all documents, whether their execution is or is not simultaneous with the advances secured by them, on the same footing.

9. *Clause 10* (5).—Stamp duties on certain mortgages of crops are reduced from four annas to two annas as well as the duty on mortgages of crops when the loan is repayable in more than twelve but not more than eighteen months.

10. The other amendments are purely consequential and require no explanation.

Pol. No. 896—Enc. 7, from the Secretary to the Government of Mysore, General and Revenue Departments, to the First Assistant Resident in Mysore, Bangalore, dated 6h May 1908.

I am directed to forward herewith a Bill to amend the Mysore Stamp Regulation, II of 1900.

2. The Stamp Law in force in the State, Regulation II of 1900, was passed on the lines of the Indian Stamp Act, II of 1899. The latter Act has since been considerably modified in British India by Acts XV of 1904 and V of 1906. The amendments introduced by the above Acts are embodied in the ten clauses of the present bill and the effect of this legislation will be to bring the Stamp Law in Mysore into conformity with the Stamp Law in British India. The statement of objects and reasons accompanying the Bill explains the more important of the amendments proposed to be introduced. **Serial No. 2.**

3. The Bill has been considered and passed by the Mysore Legislative Council in accordance with Regulation I of 1907.

4. I am to request that the Government of India may be kindly moved to accord their approval to the bill.

D. O. No. 2700, dated 20th May 1908, from F. P. Rennie, Esq., First Assistant Resident, to V. P. Madhava Rao, Esq., C.I.E., Dewan of Mysore.

Will you kindly refer to Mr. Balasundaram Iyer's letter No. 896, dated the 16th May 1908, forwarding a draft Bill to amend the Mysore Stamp Regulation, II of 1900). **Serial No. 3.**

The last sentence of clause 10 (7) A (2) of the draft Bill does not contain the words "exceeding six months and not" which occur in Section 7 (3) A (2) of the British Indian Act, V of 1906, and Mr. Fraser will be glad to be informed whether the omission is due to a clerical error. Should this not be the case, I am to ask whether it would not be advisable to alter the words "twelve" into "six" so as to provide for term policies for periods exceeding six but not exceeding twelve months.

D. O. No. 963, dated 27th May 1908, from C. S. Balasundaram Iyer, Esq., Secretary to Government, General and Revenue Departments, to F. P. Rennie, Esq., I.C.S., First Assistant Resident.

I am desired to acknowledge the receipt of your D.O. letter No. 2700, dated the 20th May 1908. to the address of the Dewan on the subject of the draft Bill to amend the Mysore Stamp Regulation, II of 1900. **Serial No. 4.**

Amendment of Stamp Regulation, II of 1900. (Dasara Subject No. 24 of 1906.)

In reply I am to express regret that the words "exceeding six months and not" in the last sentence of clause 10 (7) A (2) were omitted owing to a clerical error. Seven copies of the Bill are sent herewith with the omission duly filled up; and these may kindly be substituted for the copies sent with my official letter Political No. 896, dated the 6th May 1908.

BILL TO AMEND THE MYSORE STAMP REGULATION, II OF 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows:—

1. In Section 2 of the Mysore Stamp Regulation, II of 1900, (hereinafter referred to as the "said Regulation")—

Amendment of Sec. 2, Regulation II, 1900.

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely:—

"(16A). "Marketable security" means a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

Marketable security.

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed; and

(*c*) to the definition of "settlement" in clause (24), the following words shall be added, namely:—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

2. In Section 11, clause (*a*), Section 32, proviso, clause (*c*), Section 35, proviso, clause (*a*), Section 40, Section 41, Section 69 and Section 74 of the said Regulation, after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Amendment of Sections 11, 32, 35, 40, 41, 69 and 74, Regulation II, 1900.

3. After Section 23 of the said Regulation, the following section shall be added, namely:—

Addition of new Section 23A after Sec. 23, Regulation II, 1900.

"23A (1). Where an instrument (not being a promissory note or bill of exchange),

"Certain instruments connected with mortgages of marketable securities to be chargeabe as agreements."

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

4. In Section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely:—

Amendment of Section 26, Regulation II, 1900.

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

5 (*a*) In Section 29, clause (*a*), of the said Regulation, for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Amendment of Section 29, clause (*a*), Regulation II, 1900.

(*b*) For Section 29, clause (*b*), the following shall be substituted, namely:—

"(*b*) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance;

(*bb*) in the case of a policy of fire insurance—by the person issuing the policy."

Substitution of new clause for clause (*b*) of Section 29, Regulation II, 1900.

6. To Section 30 of the said Regulation, the following paragraph shall be added namely:—

Addition to Section 30, Regulation II, 1900.

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

7. In Section 40, sub-section (1), clause (*b*), of the said Regulation, before the words "ten times the amount," the words "an amount not exceeding" shall be inserted.

Amendment of Section 40 (1) (*b*), Regulation II, 1900.

8. In Section 51 of the said Regulation, after the word "instruments," the words "by any banker or," and after the word "said," the word "banker" shall be inserted.

Amendment of Section 51, Regulation II, 1900.

9. In Section 56, sub-section (1), of the said Regulation, after the word and figure "Chapter V," the following shall be inserted, namely:—

Amendment of Section 56 (1), Regulaton II, 1900.

"and under clause (*a*) of the first proviso to Section 26."

10. In the Schedule I of the said Regulation, the following amendments shall be made, namely:—

Amendments of Schedule I, Regulation II, 1900.

(1) For Article No. 6 the following shall be substituted, namely:—

"6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security); or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement;	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.

Exemption.

Instrument of pawn or pledge of goods if unattested."

(2) In the entry immediately following Article No. 27, for the words and figure "*See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6)" the words and figure "*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted.

(3) The entry "EQUITABLE MORTGAGE" following Article No. 28 shall be omitted.

(4) In Article No. 38—

(*a*) for the words and figure "An AGREEMENT TO MORTGAGE (No. 6)" the words and figure "An AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6) shall be substituted;

(*b*) from clause (*b*), the words "at the time of execution" shall be omitted; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

(5) In Article No. 39—

(*a*) in clause (*b*) for the words "one year," the words "eighteen months" shall be substituted.

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*), the entry "Two annas" shall be substituted.

(6) After Article No. 44, the following entry shall be inserted, namely:—

"PAWN OR PLEDGE—*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)."

(7) For Divisions A and B of Article No. 45, the following shall be substituted, namely:—

	If drawn singly	If drawn in duplicate for each part
"A. SEA INSURANCES (*See* Section 7)—		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eight per centum of the amount insured by the policy;	One anna ...	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy.	Two annas ...	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months;	Two annas ...	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ...	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000;	.....	Eight annas.
AND (ii) IN ANY OTHER CASE;	.....	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	.....	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 51."

(8) To Article No. 51 the following note shall be added, namely:—

"See also Policy of Insurance No. 45-B(2)."

(9) In Article No. 53, after the word "instrument," the following parenthesis shall be inserted, namely:—

"(not being such a release as is provided for by Section 23A)."

Statement of Objects and Reasons.

Under clause (1) (*b*) of Section 40 of the Mysore Stamp Regulation, II of 1900, the penalty which the Deputy Commissioner shall demand for unstamped or insufficiently stamped documents is "five rupees, or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof." This gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper duty or of the deficiency, where such amount is in excess of five rupees. To take an example, in the case of an

unstamped document which should have been written on a ten rupee stamp paper, the Deputy Commissioner must levy a penalty of either Rs. 5 or Rs. 100; that is to say, if the Deputy Commissioner considers a penalty of Rs. 5 to be insufficient in the circumstances of the case, he has no option but to levy a penalty of Rs. 100, and cannot demand any smaller sum. The hardship caused by this was brought to notice at the meeting of the Representative Assembly held in the year 1906 (General Subject No. 24). It is proposed to remedy this by inserting the words "an amount not exceeding" before the words "ten times the amount" in the said sub-section, *vide* clause 7 of the bill. It may be remarked that this amendment has already been made by Act XV of 1904 in the Indian Stamp Act, 1899, on which the Mysore Stamp Regulation is based.

2. The opportunity is also taken to introduce certain other amendments which have been made in the British Indian Act, by Acts XV of 1904 and V of 1906, so as to bring the Mysore Stamp Law into conformity with the Stamp Law of British India. Some of the amendments, *e.g.*, those relating to fire insurance and sea insurance may not be of much consequence so far as Mysore is concerned; but since Regulation II of 1900 does contain certain provisions in respect of such matters, it is considered desirable to include in the bill the amendments relating to these provisions also. The more important of the amendments are explained below.

3. *Clauses 1 (a) and 3.*—Clause 1 (*a*) defines the expression "marketable security." This definition is necessary in connection with the new Section 23 A—*vide* clause 3—by which it is proposed to levy a fixed fee of eight annas only instead of the fees prescribed in Article 6 of Schedule I, when the security deposited by way of equitable mortgage is marketable.

4. *Clause 1 (c)* suggests an addition to the definition of "Settlement" with the object of preventing the evasion of stamp duty imposed on settlements, which it is now possible to effect by the simple expedient of first making an oral disposition of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the settler and the trustees join. Such an instrument is only chargeable with a stamp duty of Rs. 15 under Article 62 instead of with the heavier duty imposed by Article 56. The proposed addition to the definition will have the effect of requiring such instruments in future to be stamped as settlements.

5. *Clauses 4 and 9.*—Under Section 26 of the Regulation where the value of the subject matter of an instrument is unknown or indeterminate, the contracting parties may use their discretion as to the value of the stamp to be affixed to the instrument but no sum can be recovered under it in excess of the amount covered by the duty actually paid. An exception is, however, made in the case of mining leases in which a royalty or share of the produce is reserved as rent. The value of the share or royalty is necessarily indeterminate in the majority of such cases, and it is, therefore, provided that, if the lease be stamped on an assumed valuation of Rs. 20,000 a year, the sum actually due under the lease may be recovered, whatever the amount may be. This provision is considered unsuitable in the case of mining leases granted by the Government; for the natural tendency of Revenue Officers is to safeguard the interests of the Government by valuing the royalty at the figure just referred to in every case. The stamp-duty, ordinarily payable on this valuation, is Rs. 200 and this constitutes a heavy burden in the case of small and unproductive mines. It is proposed, therefore, by clause 4 of the bill, to expand the section so as to provide that, where a mining lease is granted by the Government, the Deputy Commissioner may estimate the amount royalty which he considers likely to be payable, and it will be sufficient if the lease is stamped in accordance with his estimate. Clause 9 provides for the revision of the Deputy Commissioner's decision in such cases by the Chief Controlling Revenue Authority.

6. *Clauses 5 (b), 6 and 10 (7).*—This is a group or clauses relating to the duty on fire and marine insurance policies. The present rates for fire insurance policies prescribed by Article 45 (B) of Schedule I are considered unequal and unduly high. It is accordingly proposed in clause 10 (7) of the bill to substitute, for the present rates which vary according to the amount or the period of the policy, a uniform duty of eight annas in respect of every fire-insurance policy when the sum insured is less than Rs. 5,000, of Re. 1 in other cases, and half these duties (in addition to the usual stamp duty of one anna for receipts given) on every payment of premium or consideration for any renewal of a contract of fire-insurance (clause 6). Under this arrangement the liability to stamp the policies and receipts is imposed upon the companies which issue them [Clause 5 (*b*)]. Clause 10 (7) legalises an existing but unauthorised practice of dividing the stamp duty payable on marine insurance policies between copies drawn in duplicate.

7. *Clause 8* admits private banking firms to the benefit allowed by Section 51 of the Regulation in regard to the refund of the value of unused stamp papers.

Amendment of Stamp Regulation, II of 1900. (Dasara Subject No. 21 of 1906.)

8. *Clause 10 (1).*—In Article 6 of Schedule I, the term "Equitable mortgage" is not clear enough to comprehend all the transactions intended to be denoted by it. There appears to be some doubt as to whether pawns and pledges come under the article. Other defects and anomalies noticed in the same connection are (*a*) want of provision therein for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year, or (*b*) for the case where the advance secured is repayable on demand. It is proposed, in clause 10 (*1*), to amplify the article so as to define more clearly the nature of the transaction intended to be covered. Pawns and pledges are specifically mentioned and the reference to 'hypothecation' has been omitted; thus all transactions of the nature of hypothecation—*i.e.*, where movable property is simply appropriated by way of security for the discharge of a debt or engagement without parting with its possession—are outside the scope of the article. It is proposed to impose the same duty on a document securing repayment after more than one year as that on a document securing repayment within one year; and documents securing repayment on demand are to be liable to the same duty as that on document securing repayment after more than three months. Finally, it is proposed to place all documents, whether their execution is or is not simultaneous with the advances secured by them, on the same footing.

9. *Clause 10* (5).—Stamp duties on certain mortgages of crops are reduced from four annas to two annas as well as the duty on mortgages of crops when the loan is repayable in more than twelve but not more the eighteen months.

10. The other amendments are purely consequential and require no explanation.

No. 3437, dated Bangalore, 3rd July 1908, *from F. P. Rennie, Esq., I.C.S., First Assistant to the Resident in Mysore, to the Dewan of Mysore.*

Serial No. 5.

I am directed to acknowledge the receipt of Mr. Balasundaram Iyer's letter No. 896, dated the 6th May 1908, forwarding a bill to amend the Mysore Stamp Regulation, 1900 (II of 1900), which the Mysore Durbar propose to pass into law.

2. In reply, I am to convey the sanction of the Government of India to the draft bill on the condition that the Governor-General-in-Council retains over it the power and authority which vests in him by virtue of Article 19 of the Instrument of Transfer.

No. J. 246—*Legis.* 17-06-07, *dated the* 21*st July* 1908.

Serial No 6.

ORDER THEREON.—Ordered that the accompanying Regulation to amend *the* Mysore Stamp Regulation II of 1900, which received the assent of H. H. the Maharaja on the 11th July 1908 be published for general information

C. S. BALASUNDARAM IYER,
Secretary.

To the Compiler, *Mysore Gazette*, for publication, with a copy of the Regulation II of of 1908.

REGULATION NO. II OF 1908.

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 11TH JULY 1908.)

A Regulation to amend the Mysore Stamp Regulation II of 1900.

Whereas it is expedient to amend the Mysore Stamp Regulation, 1900; His Highness the Maharaja is pleased to enact as follows:—

1. In Section 2 of the Mysore Stamp Regulation, II of 1900, (hereinafter referred to as the "said Regulation")—

Amendment of Section 2, Regulation II, 1900.

(*a*) after the definition of "lease" in clause (16), the following definition shall be inserted, namely:—

"(16A). "Marketable security" meas a security of such a description as to be capable of being sold in any stock market in British India or in the United Kingdom or in Mysore."

Marketable security.

(*b*) in clause (19), sub-clause (*c*) and the word 'and' prefixed thereto are hereby repealed; and

(*c*) to the definition of "settlement" in clause (24), the following words shall be added, namely:—

"and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."

2. In Section 11, clause (*a*), Section 32, proviso, clause (*c*), Section 35, proviso, clause (*a*), Section 40, Section 41, Section 69 and Section 74 of the said Regulation, after the words "one anna" wherever they occur, the words "or half-an-anna" shall be inserted.

Amendment of Sections 11, 32, 35, 40, 41, 69 and 74, Regulation II, 1900.

3. After Section 23 of the said Regulation, the following section shall be added, namely:—

Addition of new Section 23A after Section 23, Regulation II, 1900.

"23A (1). Where an instrument (not being a promissory note or bill of exchange)—

"Certain instruments connected with mortgages of marketable securities to be chargeable as agreements."

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I.

(2) A release or discharge of any such instrument shall be chargeable with the like duty."

4 In Section 26 of the said Regulation, for the first proviso, the following proviso shall be substituted, namely:—

Amendments of Section 26, Regulation II, 1900.

"Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Amendment of Stamp Regulation, II of 1900. (Dasara Subject No. 24 of 1906.)

5. (*a*) In Section 29, clause (*a*), of the said Regulation, for the words and figure "No. 6 (Agreement to Mortgage)" the words and figure "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge)" shall be substituted.

Amendment of Section 29, clause (*a*), Regulation II, 1900.

(*b*) For Section 29, clause (*b*), the following shall be substituted, namely :—

"(*b*) in the case of a policy of insurance other than fire insurance—by the person effecting the insurance ;

(*bb*) in the case of a policy of fire insurance—by the person issuing the policy."

Substitution of new clause for clause (*b*) of Section 29, Regulation II, 1900.

6. To Section 30 of the said Regulation, the following paragraph shall be added, namely :—

Addition to Section 30, Regulation II, 1900.

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

7. In section 40, sub-section (1), clause (*b*), of the said Regulation, before the words "ten times the amount," the words "an amount not exceeding" shall be inserted.

Amendment of Section 40 (1) (*b*), Regulation II, 1900

1. In Section 51 of the said Regulation, after the word "instruments," the words "by any banker or," and after the word "said" the word "banker" shall be inserted.

Amendment of Section 51, Regulation II, 1900.

9. In Section 56, sub-section (1), of the said Regulation, after the word and figure "Chapter V," the following shall be inserted, namely :—

Amendment of Section 56 (1), Regulation II, 1900.

"and under clause (*a*) of the first proviso to Section 26."

10. In Schedule I of the said Regulation, the following amendments shall be made, namely :—

Amendments of Schedule I, Regulation II, 1900.

(1) For Article No. 6 the following article shall be substituted, namely :—

"6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security) ; or	
(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement ;	The same duty as a bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a bill of Exchange [No. 12 (*b*)] for the amount secured.
Exemption.	
Instrument of pawn or pledge of goods, if unattested."	

(2) In the entry immediately following Article No. 27, for the words and figure *See* AGREEMENT BY way of EQUITABLE MORTGAGE (No. 6)" the words and figure "*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted.

(3) The entry "EQUITABLE MORTGAGE" following Article No. 28 shall be omitted.

(4) In Article No. 38—

(*a*) for the words and figure "An AGREEMENT TO MORTGAGE (No. 6)" the words and figure "An AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)" shall be substituted ;

(*b*) from clause (*b*), the words "at the time of execution" shall be omitted ; and

(*c*) the exemption "(3) Instrument of Pledge or Pawn of goods, if unattested" shall be omitted.

(5) In Article No. 39—

(*a*) in clause (*b*) for the words "one year," the words eighteen months shall be substituted.

(*b*) for the entry "four annas" each time it occurs in the second column opposite clause (*b*), the entry "Two annas" shall be substituted.

(6) After Article No. 44, the following entry shall be inserted, namely:—

"PAWN OR PLEDGE—*See* AGREEMENT relating to DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6)."

(7) For Divisions A and B of Article No. 45, the following shall be substituted, namely:—

	If drawn singly	If drawn in duplicate for each part
"A. SEA INSURANCE (*see* Section 7)—		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy.	One anna ...	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	Two annas ...	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months;	Two annas ...	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas ...	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000;	.....	Eight annas.
and (ii) in any other case;	.....	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	.....	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 51."

(8) To Article No. 51 the following note shall be added, namely:—

"See also Policy of Insurance No. 45-B(2)."

(9) In Article No. 53, after the word "instrument," the following parenthesis shall be inserted, namely:—

("not being such a release as is provided for by Section 23A)."

V. P. MADHAVA RAO,
Dewa